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NOTE ON INTERNATIONAL PROTECTION

I. INTRODUCTION

1. The purpose of the High Commissioner's annual Note on International Protection is to report on major protection challenges over the period in question and on how they have been addressed. This year, the Note takes as its frame the Agenda for Protection (issued as Addendum 1), which consolidates the results and sets out the goals and objectives emerging from the Global Consultations on International Protection held during 2001-02. In doing so, the Note makes clear the direct links between the Agenda and contemporary protection challenges confronting individuals, States and UNHCR. The Agenda has its roots in, and is directly relevant to, the management of the spectrum of refugee protection challenges today.

2. As the Agenda makes clear, the purpose of the Global Consultations process was to provoke both reflection and action to revitalize the international refugee protection regime, at the centre of which lies the 1951 Convention relating to the Status of Refugees and the 1967 Protocol. The process was also intended to equip States better to address the challenges in a spirit of dialogue and cooperation. Broad-based participation in the Consultations was one key to ensuring an Agenda with a breadth of coverage predicated on clear appreciation of State interests, of refugee needs in an increasingly globalized world, and of the possibilities and difficulties of reconciling them in the current environment.

3. Overall, the Global Consultations process did generate better understanding of, and a more cooperative spirit in tackling refugee issues. It rekindled interest in multilateral dialogue to find solutions to an increasingly internationalized set of problems. The process confirmed an important degree of willingness to pool concerns and jointly point the way forward to the durable resolution of problems, to which solutions are within collective reach. Moreover, brought into sharper focus, the need for greater

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activity and predictability as regards burden and responsibility-sharing. Dilemmas confronting States in constructing efficient, expeditious and fair asylum procedures, and those facing refugees seeking to access them, as well as the host of problems which arise in mass influx situations or from the asylum/migration nexus were prominent in discussions. The specific problems confronting women and children refugees were explicit and cross-cutting. The Agenda is the direct and tangible outcome of this process.

4. The developments reported in the following pages are grouped under headings, which reflect the six main goals contained in the Agenda, and illustrate, although not exhaustively, the seriousness of this challenge. The order chosen for the purposes of this Note is designed to highlight issues of topical concern.

II. ADDRESSING SECURITY-RELATED CONCERNS MORE EFFECTIVELY

5. The Agenda for Protection stresses the security of refugees as a central concern. During the reporting period, securing the situation of asylum-seekers and refugees proved particularly difficult in a number of countries across the world plagued by war and civil strife, attacks on camps, forcible recruitment of refugees, periodic *refoulement*, closed borders, or insecurity in urban and camp environments for particularly vulnerable persons, especially among women, children and the elderly. The militarization of refugee camps also remained a key challenge. The breakdown in social and cultural structures and norms, separation from and loss of family members and community support, and tolerance of impunity for perpetrators of crimes and violence were exacerbating features, as frequently occurs in many refugee situations.

A. The safety of refugees and separation of armed elements from refugee populations

6. Over the last year, asylum-seekers and refugees in many countries throughout the world faced increasingly frequent attack, arrest, abduction, mass round-up and detention, deportation, and even murder, including of children. Such incidents seriously undermined the safety of refugees and contributed in some instances to the broader problem of secondary onward movement, since protection in the host country could not or could no longer be assured.

7. Another concern remained how to ensure the civilian and humanitarian nature of asylum, primary responsibility for which resides with the host State. By way of example, one approach adopted during the reporting period concerned some 26,000 refugees, who had arrived in the Democratic Republic of the Congo in mid-2001, had found temporary accommodation among the local population of a border town, and were known to include armed elements. UNHCR took the initiative to involve both the United Nations peacekeeping mission in the country and the local authorities in carrying out a separation exercise beginning in October 2001. As a result, some 2,500 ex-combatants and their families were transferred to a camp 150 km from the border at the end of the year, while the civilians were relocated 30 km from the town by mid-February 2002.

8. Security concerns can also be relevant when refugees return to their countries of origin. In Afghanistan, for instance, which experienced by far the largest return movement during the reporting period, the security situation in many areas remained poor. Factional fighting between warlords continued and there was crime and banditry, not to mention large quantities of land mines and unexploded ordnance.[1] Disarmament was at best an elusive long-term aim as men and boys returned to villages with guns and no job prospects, while unresolved, long-standing inter-ethnic tensions and conflicts generated new movements of refugees and internally displaced persons (IDPs). In response, UNHCR has been undertaking information and mine awareness programmes for returnees, and in the north has been actively pursuing the creation of a high-level return commission involving all main stakeholders to enable the safe return of the forcibly displaced.

9. In other regions, a number of Latin American States took measures during the reporting period to enhance security by establishing safe reception facilities at an adequate distance from the border for refugees fleeing civil war in Colombia, so as to avoid armed incursions endangering refugees' security. In other situations, registration and re-registration exercises helped to reinforce the civilian character of the refugee population, as well as contribute to establish accurate statistics, and facilitate the protection of those in need. More generally, in the context of post-conflict situations, the World Bank, the United Nations Development Programme (UNDP), and the international community have cooperated more concertedly on the issue of ex-combatants to facilitate "demilitarization, demobilization, reintegration and rehabilitation".

B. Prevention of military recruitment of refugees

10. Measures to prevent the military recruitment of refugees, including adolescents and children, affect more than just these individuals and have a long-term impact on whole societies. Important standards in this respect are set out in the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict, which entered into force in February 2002. UNHCR offices worldwide have been instructed to assist the United Nations Children's Fund (UNICEF) in efforts to promote ratification of the Optional Protocol and to protect children against forced recruitment.

11. Efforts to rehabilitate and reintegrate former child soldiers into their communities undertaken by UNHCR, UNICEF and other partners during the year to mid-2002 included non-formal education, skills training, and income-generating activities. Family reunification also proved key to successful rehabilitation of child soldiers. Positive initiatives in Africa included, a UNHCR-supported child welfare committee and youth social clubs in Liberia. When made aware of military recruitment efforts by an armed opposition group, the committee visited each household to speak with families and children. In neighbouring Sierra Leone, a UNHCR-funded local NGO provided foster care and other forms of alternative care for returnee children, including ex-combatants, pending tracing and family reunification and for

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[1] See also report of 11 July 2002, of the Security Council, "The Situation in Afghanistan and its Implications for International Peace and Security: Report of the Secretary-General", (A/56/1000-S/2002/737). See also, section VI.A below for more details on voluntary returns to Afghanistan.

those children who were unable to unite with their families or community. In Asia and East Africa, initiatives to raise community awareness of the rights and needs of such children were also undertaken. In Sri Lanka, for instance, UNHCR and UNICEF cooperated in the project "children as zones of peace", which fostered activities to reduce the risk of child recruitment.

C. Prevention of age-based and sexual and gender-based violence

12. Flight - especially from armed conflict - increases vulnerability, particularly to violence. Those more vulnerable are women at risk, the elderly and children, notably separated children. Gender tends to be the most significant factor in the perpetration of violence against women and girls, but other factors include class, race, poverty level, ethnicity and age. Gender-based violence manifests itself in various forms, including sexual and other physical violence, forced prostitution, various other forms of sexual exploitation, enforced sterilization, domestic violence, forced conscription of boys, and trafficking.[2]

13. The sexual exploitation of refugee women and children received unprecedented attention in 2002 after a UNHCR-Save the Children UK report alleged sexual exploitation of young refugees in West Africa by both peacekeeping forces and humanitarian workers. Such sexual exploitation is a very real problem, not only in West Africa but elsewhere. It becomes possible not least because of unequal power relationships that are exacerbated in refugee situations. Economic and social inequalities confronting women and children make the situation worse, as does inadequate assistance.

14. UNHCR's response has been well-documented. In summary, the Office immediately despatched high level teams to West Africa to investigate and address the issue. Measures in response have included renewed and enhanced training of staff and partners, deployment of additional protection and community services staff and reinforced implementation of existing UNHCR guidelines. In addition, the United Nations' Office of Internal Oversight Services (OIOS) launched an investigation into the allegations. UNHCR has actively participated in the work of an Inter-Agency Standing Committee (IASC) task force on sexual exploitation, tasked with drafting a policy on sexual exploitation. The focus has been on assisting survivors of abuse, drafting a code of conduct and standards of behaviour for staff and humanitarian workers, and improving mechanisms and capacity to prevent sexual exploitation and abuse.

15. Subsequent and more general activities in West Africa have, for example, included awareness raising activities for staff and refugees on human rights and HIV/AIDS, workshops on preventing and responding to sexual and gender-based violence, advocacy on equitable legislation, establishment of counselling services and camp-based police stations, and increased numbers of female food distribution clerks. While these actions were focused primarily on women and children, men also had a role to play. In Guinea, for instance, UNHCR fostered the establishment of a men's association for gender equality in late 2001 to help combat violence against women in the camps. It

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[2] Of relevance in this context is the 2000 Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography which entered into force in January 2002.

now has over 60 men representing different sectors of the refugee community, and is working to form similar groups elsewhere in the country and to establish links with another men's gender equality group in Kenya.

16. In Eastern Europe, where domestic violence is an issue of concern, UNHCR has conducted an in-depth study and developed a response plan to enable protection staff to improve assistance to survivors of domestic violence. Activities in Central European countries have included programmes to ensure that therapists are made available for survivors of sexual violence and exploitation. In the Americas, also by way of example, partnerships with specialized NGOs have been entered into, and support given for legal aid which has effectively assisted refugee women who were survivors of domestic and sexual violence. In Central America, UNHCR has conducted extensive awareness raising campaigns directed at preventing sexual and gender-based violence, and the organization has been active in several Asian countries, in field-testing revised guidelines on the problem.

17. An independent evaluation of UNHCR's activities to promote the rights and protection of children published in May 2002, welcomed the work on sexual and gender-based violence undertaken by various offices in West and East Africa, but found less focus on sexual exploitation, particularly that of adolescents and children under 18.[3] Another independent evaluation of UNHCR's policy on refugee women, also published in May 2002, acknowledged that new policies and procedures to address these issues were being developed and noted that "the challenge will be to implement these … in the field, not just in West Africa, but around the world".[4] The UNHCR-Save the Children UK report and the activities it prompted contributed substantially to raising awareness and the level of alertness on the part of UNHCR about situations particularly susceptible to sexual exploitation. UNHCR offices on all continents have been tasked with reinforcing their activities to prevent this happening and to assist survivors if it should occur.

III. PROTECTING REFUGEES WITHIN BROADER MIGRATION MOVEMENTS

18. The Agenda's goal of protecting refugees within broader migration movements incorporates suggestions as to how States, UNHCR, NGOs, and other actors can uphold international refugee protection responsibilities, while respecting their need to manage migration challenges effectively. The increasingly complex nature of migration movements, characterized as they are by composite flows that include asylum-seekers, refugees, migrant workers, victims of environmental degradation or people in search of better life opportunities, has continued to throw up numerous problems for States, UNHCR and other actors during the reporting period.

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[3] Valid International, "Meeting the Rights and Protection Needs of Refugee Children: An Independent Evaluation of the Impact of UNHCR's Activities", May 2002, p. 14. See also, section VII.B below.

[4] Women's Commission for Refugee Women and Children, "UNHCR Policy on Refugee Women and Children and Guidelines on their Protection: An Assessment of Ten Years of Implementation", May 2002, p. 75. See also, UNHCR, "Prevention and Response to Sexual and Gender-based Violence in Refugee Situations: Inter-Agency Lessons Learned Conference Proceedings, 27-29 March 2001, Geneva", Sept. 2001; Norwegian Institute of International Affairs, "Improving the Security of Refugee and Displaced Women: Conference Proceedings", Oslo, Jan. 2002.

A. Refugee protection and migration management

19. The tension arising in mixed migration flow situations between States' refugee protection responsibilities and concerns about irregular population movements continued to hamper protection efforts. Migration control measures have included reinforcing visa regimes, imposing carrier sanctions, pre-boarding and pre-disembarkation document checks and other interception measures, using infrared cameras to detect clandestine passengers at borders and ports, and increased resort to first asylum country and safe third country concepts. In some cases, the effect of some of these measures has led to non-admission of asylum-seekers and refugees, denial of access to an asylum procedure, and incidents of *refoulement*. Of particular concern has been the apparent increase in instances of return of asylum-seekers to so-called "safe third countries" without any formal arrangements for their reception. In some States, all illegal entrants were indiscriminately subject to deportation, regardless of feared persecution. In other countries, UNHCR was not permitted access to border regions, and was therefore unable to verify the treatment of those seeking to enter. In various European and Latin American countries, however, UNHCR was enabled to increase border monitoring so that asylum-seekers could have access to appropriate procedures. Problems did persist, however, especially with screening procedures for so-called manifestly unfounded cases.

20. The problem of access to territory and procedures for those arriving by sea had a particular focus during the reporting period in the light of some highly publicized incidents, including the rescue-at-sea of some 430 asylum-seekers from a sinking vessel in the Indian Ocean in August 2001.[5] Refusal by States to disembark those rescued or sometimes even to come to the rescue was on occasion a serious problem. There were other States, however, which continued during the reporting period to uphold the accepted maritime practice of permitting sometimes larger numbers of people, rescued for instance in the Mediterranean, to disembark on their territory. UNHCR responded through diplomatic channels where those rescued sought asylum, basing its approaches on the Executive Committee's pronouncements that States should admit asylum-seekers at least on a temporary basis,[6] and suggesting practical ways to ease the burden on particularly affected States.

21. In March 2002, UNHCR convened an expert roundtable on rescue-at-sea in Lisbon, Portugal, bringing together experts from governments, the shipping industry, international organizations, NGOs and academia. The meeting was organized partly in response to a plethora of representations to UNHCR from the shipping industry, seeking assistance in bolstering the time-honoured tradition of rescue of persons in distress at sea against what were presented as very serious incursions. Its purpose was also to introduce greater clarity into the debate on responsibilities. This meeting produced a set of

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[5] This year's Nansen award went to the captain, crew and owner of the vessel rescuing them.

[6] See *inter alia*, Executive Committee Conclusions:"Refugees without an asylum country" (1979) (A/AC.96/572, para. 72 (2) (c)); "Protection of asylum seekers in situations of large-scale influx" (1981) (A/AC.96/601, para. 57 (2) II.A.1.); "Problems related to the rescue of asylum seekers in distress at sea" (1981) (A/AC.96/601, para. 57 (3) 3.).

conclusions on rescue-at-sea and disembarkation,[7] and served to share reflections on a potential international cooperative framework on this issue. UNHCR has subsequently strengthened cooperation with other actors concerned with this issue under the auspices of an inter-agency review group led by the International Maritime Organization (IMO). At its first meeting in July 2002, this group broadly supported the conclusions of the roundtable in Lisbon.

22. More generally, information campaigns aimed at potential migrants have been identified as being key to wider efforts to combat illegal migration whilst upholding refugee protection. States have taken a lead in such campaigns, and UNHCR has participated, ensuring that the asylum component is accurately reflected.

23. UNHCR has also participated actively in a number of regional migration fora, encouraging inclusion of the asylum component in broader strategies for effective migration management. In the Americas, the seventh regional conference on migration (also known as the "Puebla process") held in Guatemala, in May 2002, included various provisions in its plan of action which relate directly to refugees. The plan, *inter alia*, urged participating States to strengthen their cooperation with UNHCR to ensure adequate training of border and immigration officials on aspects of asylum legislation and refugee rights in general, thus acknowledging that effective border control can respect protection principles.

24. In Europe, UNHCR continued to play an active role in the debate on harmonization of asylum and migration systems within the European Union. The Conclusions of the Seville European Council meeting in June 2002, recognized that measures taken in the short and medium term to manage migration flows must strike a fair balance between, on the one hand, an integration policy for lawfully resident immigrants and an asylum policy in accordance with international refugee instruments and, on the other, resolute action to combat illegal immigration, smuggling and trafficking in human beings. As the High Commissioner said at the time of the summit, "effective and durable solutions to these problems are at hand, but can only be effective if the whole 'chain' of displacement is addressed". He added that in the case of Europe, it was not enough to concentrate on policy measures within the EU and on its borders. Solutions had also to be found in regions of origin and transit, and required political and financial support if refugees were not to end up moving on in search of effective protection.

25. In terms of integrated inter-agency approaches, mention should be made of UNHCR's participation in the migration and asylum initiative of the Stability Pact for South Eastern Europe, leading to concrete input into the elaboration of national action plans on this issue. Progress has included the completion in Croatia of work on a migration and asylum plan, which now requires implementation. In Bosnia and Herzegovina, a working group on immigration and asylum brought together the various national and international actors concerned to work on asylum legislation and associated regulations. In Albania, a memorandum of understanding between UNHCR and the

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[7] See UNHCR expert roundtable on rescue-at-sea, Specific Aspects Relating to the Protection of Asylum-seekers and Refugees, Lisbon 25-26 March 2002, Summary of Discussions, 11 April 2002.

authorities formalized the operation of an initial screening mechanism designed to ensure the correct channelling of individuals - whether they were asylum-seekers, victims of trafficking or other categories of migrants - towards the institutions best equipped to respond to their needs.

B. International efforts to combat smuggling and trafficking

26. The growing international consensus on the threat posed by the smuggling and trafficking of human beings has galvanized efforts to combat these crimes. UNHCR supports these efforts strongly, even while it has consistently advocated the incorporation of victim protection mechanisms in all measures designed to combat these phenomena. This is not least due to concerns that refugees are among those who fall prey to these crimes. The saving clauses incorporated into the two Protocols of the United Nations Convention against Transnational Organized Crime on the Trafficking and on the Smuggling of Persons reflect the interest of States in giving due regard to the needs of victims.[8] The Agenda for Protection highlights the importance of accession to these instruments and UNHCR has continued to work with a number of States to ensure that national anti-smuggling and anti-trafficking legislation takes account of the legal definitions and saving clauses contained in the Protocols.

27. In part in response to events in the Asia-Pacific, a regional ministerial conference on people smuggling, trafficking in persons and related transnational crime was held in Bali, Indonesia, in February 2002. UNHCR has also been working with States on the development of comprehensive responses to secondary movements in the Asia-Pacific region. In Europe, there was, too, an increased focus on these issues during the reporting period. Some States introduced or reinforced legislation designed to prevent irregular migration and combat smuggling and trafficking, which resulted in a tightening of access to territory and asylum procedures, particularly in western Europe. At the regional level, the EU approved instruments on the harmonization of carrier sanctions, illegal immigration and trafficking of human beings.[9] In the North American context, a new US "T-visa" for the protection of victims of trafficking was introduced. At the same time, courts in various European and North American jurisdictions have begun to recognize the international refugee protection needs of those victims of trafficking who may be subjected to persecution if returned.

28. As regards other related developments, in West Africa, for instance, concerns about the trafficking of children have led UNHCR to work closely with governments and concerned agencies to develop awareness campaigns. More

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[8] The Convention and Protocols were opened for signature in Palermo in November 2000. As of 1 Aug. 2002, the Convention had 18 ratifications (including 12 in 2002); the trafficking protocol had 14 (including 10 in 2002); the smuggling protocol had 13 (including nine in 2002). Each instrument requires 40 ratifications to enter into force.

[9] See *inter alia*, Council Directive 2001/51/EC harmonizing penalties against carriers transporting undocumented passengers, 28 June 2001; European Commission Communication on a Common Policy on Illegal Immigration, COM(2001) 672 final, 15 Nov. 2001; Council Proposal for a comprehensive plan to combat illegal immigration and trafficking of human beings in the EU, 27-28 February 2002; Council Framework Decision on combating trafficking in human beings, 19 July 2002.

generally, UNHCR's co-chairing with the International Labour Organization (ILO) of the Geneva-based Intergovernmental Organization Contact Group on Human Trafficking and Migrant Smuggling constituted another mechanism to promote information sharing and facilitate inter-agency cooperation in this area.

C. Reduction of irregular or secondary movements

29. In a number of countries of first asylum in different regions, refugees were unable to gain effective protection, due to a lack of formal recognition, proper documentation, a sustainable livelihood, a secondary persecution threat, or other factors, thus causing them to seek protection elsewhere. In other situations, the motivation for onward movement is primarily for economic betterment. Many of the burden- and responsibility-sharing measures which can enhance protection and assistance, and thus reduce the likelihood of flight or of onward secondary movement from countries of first asylum, need to be further explored and operationalized. In a move to enhance understanding of these issues, UNHCR commissioned an expert analysis of effective protection, clarifying the concept and assessing the elements needed before such protection can be said securely to exist. An inter-governmental and expert roundtable on this subject is planned for December 2002. UNHCR is also examining the feasibility of comprehensive plans of action for specific, irregular and secondary movement situations.

D. Increased cooperation between UNHCR, IOM and other agencies

30. The Action Group on Asylum and Migration (AGAMI), first established in November 2001 in response to a Global Consultations recommendation that UNHCR and IOM reach better joint understanding of issues related to the asylum/migration nexus, has now met three times. An issue of mutual concern has been how to improve the availability, comprehensiveness and compatibility of data on migratory flows, especially clandestine movements. The absence of such data continued to be an obstacle to the development of adequate response mechanisms. UNHCR's participation in the July 2002 coordination meeting on international migration convened by the United Nations Population Division was directed at enhancing cooperation with other agencies in this regard. UNHCR is also strengthening its dialogue with other organizations on ways in which to contribute to the shared goal of better data collection and research on the nexus between asylum and migration. Other issues on the joint agenda have included research on the root causes of illegal migration, cooperation on information campaigns beyond the topics of trafficking and smuggling, and discussion of institutional roles and responsibilities to clarify how each institution views its mandate.

IV. STRENGTHENED IMPLEMENTATION OF THE 1951 CONVENTION AND THE 1967 PROTOCOL

31. States reaffirmed their commitment to strengthened implementation of the 1951 Convention and the 1967 Protocol at the Ministerial Meeting, coorganized by the Swiss Government and UNHCR in Geneva, on 12 and 13 December 2001, to commemorate the fiftieth anniversary of the 1951 Convention. This meeting, the first gathering of States Parties to the Convention, agreed on a formal Declaration, which solemnly reaffirmed States' "commitment to implement [their] obligations under the 1951 Convention and/or its 1967 Protocol fully and effectively in accordance with the object and

purpose of these instruments". Some continue to question the continuing relevance of these instruments. This Declaration constitutes the significant and authoritative rebuttal to such questions. In recognizing the centrality of the Convention and Protocol, the Declaration also goes further in locating the Convention in today's complex and evolving environment and supports the future development of the regime. The Declaration is, in this regard, premised on more robust cooperation, albeit within the agreed basic framework.

A. Accessions to the 1951 Convention and 1967 Protocol

32. The Agenda calls for more accessions to the 1951 Convention and 1967 Protocol. During the reporting period, the Republic of Moldova acceded to both instruments, Saint Kitts and Nevis to the 1951 Convention, and Ukraine to the 1967 Protocol. This brings the number of States party to the 1951 Convention and/or 1967 Protocol to 144. During the reporting period, Malta withdrew its geographical limitation, as well as a number of other reservations to the Convention.[10] For these States, as for all States Parties, implementation of the Convention and Protocol are of course crucial.

33. In regions where few States are party to these instruments - primarily South Asia and the Middle East - the low rate of accession is coupled with an absence of domestic asylum legislation. While there is a strong tradition of hospitality to displaced populations in these regions, the lack of a legal framework has meant that ad hoc approaches have continued to be adopted when dealing with refugees. As a result, those in need of international protection have often tended not to be identified properly, nor treated in a consistent manner, and the distinction between refugee and migrant has become blurred, possibly contributing to irregular movements of asylum-seekers and refugees. Accession to the international refugee instruments and the introduction of national asylum legislation therefore remain key challenges in these regions.

B. Individual asylum procedures

34. Over the last 12 months, asylum legislation and procedures have been introduced for the first time in several Latin American, Central American and African countries, although refugee status determination was undertaken in an ad hoc manner in many other States in various regions. Where procedures have progressively been established, UNHCR has been able to hand over responsibility for refugee status determination to national authorities in several States. Training to assist the transfer has been provided by UNHCR and in some cases by the immigration services of a neighbouring country; in others, UNHCR has continued to sit in on eligibility interviews for a transitional period. Overall, governments were responsible for refugee status determination in nearly 60 per cent of countries receiving refugees; elsewhere UNHCR continued to undertake status determination directly under its mandate, sometimes in cooperation with local NGOs.

35. Where States have their own asylum procedures, revised legislation in some has strengthened protection, including by introducing safeguards against *refoulement*, removing time limits on access to the asylum procedure, and recognizing that the refugee definition encompasses persecution by non-State

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[10] See footnote 19 for accessions to statelessness conventions.

agents and gender-related persecution. In a number of European States, an independent second instance appeal has also been established. However, in other countries, the absence of an appeal on the merits of a claim weakens the credibility of the refugee determination procedure. In one country, new legislation provided for an appeal on the merits of a claim, but this part of the legislation was not implemented. A plethora of restrictive measures have strengthened barriers to admission and/or access to asylum procedures and international protection, for instance, by introducing or strengthening carrier sanctions, or reducing rights of appeal on the merits. In another country, outlying national territories were excised from the applicability of national asylum legislation, access to legal aid and judicial review of asylum decisions was curtailed, and temporary rather than permanent visas were issued even to recognized refugees if they arrived by unauthorized means with a resulting absence of family reunion rights and travel documentation. Restrictive measures were particularly evident in a number of countries which had seen a rise in electoral support for political parties expressing xenophobic views.

36. In a small number of States, the range of different circumstances recognized as requiring international protection has resulted in the introduction of a single procedure to assess such needs. For example, new Canadian legislation contains a consolidated protection definition with a single decision to assess claims for protection under the 1951 Convention, the 1984 Convention Against Torture, and other human rights instruments. A good practice to be noted in this case is the fact that a positive decision based on any of the grounds will lead to the granting of "protected person" status - a single status, based on 1951 Convention rights.

37. The prompt return of asylum-seekers found not to be in need of international protection through a full and fair procedure is widely recognized as fundamental to the credibility of the asylum system. Yet it has continued to present a considerable challenge for States, especially where the asylum-seeker lacks adequate identity papers to effect return. During the reporting period, the Council of Europe approved a number of documents setting out standards for expulsion in safety and dignity which are relevant to rejected asylum-seekers.[11]

C. Exclusion of those undeserving of international refugee protection

38. The exclusion of those undeserving of international refugee protection has been an issue of concern for some time. In the aftermath of the attacks in the United States on 11 September 2001, security considerations have injected new urgency into such concerns and have permeated policy responses on a wide range of issues. Dealing with the terrorist threat in the context

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[11] See Council of Europe, Commissioner for Human Rights, "Recommendation Concerning the Rights of Aliens Wishing to Enter a Council of Europe Member State and the Enforcement of Expulsion Orders", CommHD/Rec(2001)1, 19 Sept. 2001; Council of Europe, Parliamentary Assembly, "Expulsion Procedures in Conformity with Human Rights and Enforced with Respect for Safety and Dignity", doc. 9196, report of 10 Sept. 2001; recommendation 1547 (2002) (same title), adopted 22 Jan. 2002. See also, *Conka* v. *Belgium*, European Court of Human Rights, decision of 5 Feb. 2002, concerning the methods used to secure the expulsion of rejected asylum-seekers.

of asylum does not, however, call for an amendment of the refuge definition, since provision is explicitly made for serious crimes to be excluded from refugee status under the 1951 Convention. UNHCR believes that a review and tightening of procedural and security measures may, however, be necessary.[12] In some countries, the formal incorporation of exclusion clauses into national legislation for the first time was a welcome development. UNHCR continued to advocate that the complexity of exclusion cases is a key reason for their examination to be maintained in the regular asylum procedure, or in the context of a specialized "exclusion unit", rather than at the admissibility stage or in accelerated procedures.

39. During the reporting period, various regional organizations adopted instruments to combat terrorism. These were welcomed insofar as they clarified the definition of terrorist offences, represented an agreed framework for national legislation, and enabled the closure of jurisdictional loopholes. UNHCR promoted the inclusion of precise definitions in such instruments and avoidance of any unwarranted linkages between asylum-seekers/refugees and terrorists. If definitions are too broad and vague, as has sometimes been the case, there is a risk that the "terrorist" label might be abused for political ends, for example to criminalize legitimate activities of political opponents, in a manner amounting to persecution.

D. Harmonization of law and policy

40. One aim of the Global Consultations was to promote common or more harmonized understandings of refugee law and policy. As part of this process, UNHCR has been revising its own guidelines on a number of legal issues, not least as a result of the expert roundtables in the context of the second track of the Global Consultations. These are being issued pursuant to UNHCR's supervisory role under Article 35 of the 1951 Convention as a series of UNHCR Guidelines on International Protection.[13] They are intended to update and complement UNHCR's *Handbook on Procedures and Criteria for Determining Refugee Status*, to provide guidance for governments, legal practitioners, the judiciary, and UNHCR staff carrying out refugee status determination in the field. The background papers written for the various expert roundtables held in 2001 have been updated and are to be published in mid-2003. UNHCR has also continued the expert roundtable format during 2002, with a meeting on rescue-at-sea held in Lisbon, Portugal, in March 2002[14] and one on religion-based refugee claims scheduled for October 2002, near Washington DC, United States. Further initiatives in the legal area, such as the drafting of legal instruments, will be explored as part of the follow-up to the Agenda for Protection.

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[12] See "Addressing Security Concerns without Undermining Refugee Protection - UNHCR's Perspective", Nov. 2001.

[13] The first two Guidelines on International Protection were issued in May 2002. See "Guidelines on International Protection: 'Membership of a Particular Social Group' within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees". HCR/GIP/02/02, 7 May 2002; "Guidelines on International Protection: Gender-Related Persecution within the Context of Article 1A(2) of the 1951 Convention and/or its 1967 Protocol Relating to the Status of Refugees". HCR/GIP/02/01, 7 May 2002, both available on <www.unhcr.ch>.

[14] See above, footnote 7.

41. In several regions of the world, States have been pursuing closer harmonization of their asylum policies and interpretation of key concepts of international refugee law. This process is furthest developed in Europe, where the 15 European Union member States made progress towards agreeing common minimum standards during the reporting period, approving, for instance, a Directive on the reception of asylum-seekers and framework decisions on trafficking and other issues.[15] Key directives still require adoption by member States. UNHCR welcomed the close consultation it shared and continues to direct its efforts towards ensuring that refugee protection standards are appropriately reflected. Elsewhere, UNHCR has worked with the six member States of the Mercosur in Latin America to promote the adoption of harmonized asylum legislation on the basis of a model law in Brazil. As one result, legislation was approved in Paraguay in mid-2002. On a smaller scale, national eligibility committee members from Malawi, Zambia, and Zimbabwe met for a third consecutive year to exchange experiences in the area of refugee status determination, thus promoting a more consistent approach.

42. More harmonized interpretation of key concepts of the 1951 Convention in different countries' jurisprudence has also been promoted through the systematic monitoring by UNHCR of asylum decisions and the Office's regular representations with national authorities and judiciaries. UNHCR has also sought to make more effective use of technology in this regard. In March 2002 the Spanish-language version of UNHCR's web site - a mirror of the English-language site - was relaunched. This constitutes one of the main sources of information in Spanish on refugee issues both in the Americas and world-wide. The Handbook for Parliamentarians of the Inter-parliamentary Union and UNHCR, which helps parliamentarians to become familiar with the general principles of international refugee law,[16] has now been translated into the five United Nations official languages, as well as into German, Hindi, Italian, and Japanese. Its translation into other languages is planned.

E. Reception of asylum-seekers - Respect for refugees

43. A number of western European States took measures to enhance reception facilities.[17] The example of one State, which established for the first time a nationwide mechanism for the reception of asylum-seekers and integration of refugees on the basis of a memorandum of understanding between the government and UNHCR, was commendable. There were also positive developments in other parts of Europe. For example, in one central European country UNHCR concluded an agreement with the national border police to refurbish a reception centre, while the government approved two new reception centre sites. Healthcare, educational and other needs, particularly of children and other groups, continue to require special attention in such centres.

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[15] See Council Directive laying down minimum standards for the reception of asylum-seekers in member States, 17 June 2002 and footnote 9 above.

[16] Inter-Parliamentary Union and UNHCR, *Refugee Protection: A Guide to International Refugee Law*, Geneva, 2001.

[17] See "Reception of Asylum-Seekers, including Standards of Treatment, in the Context of Individual Asylum Systems". (EC/GC/01/17) Global Consultations, September 2001.

44. The majority of States remain able to manage their asylum systems without detaining asylum-seekers in any systematic way. Some have actively made use of alternatives to detention such as reporting and residency requirements, bonds, community supervision, or open centres. In some States where asylum-seekers were being detained, this practice was ameliorated, for instance, through the reduction in maximum detention periods permitted for asylum-seekers. New legislation in Canada stipulates that children shall be detained only as a last resort, and that the best interests of the child must be taken into account. These developments aside, however, the trend in some other countries was, regrettably, towards greater use of detention, particularly after 11 September 2001, sometimes on an apparently discriminatory basis, depending primarily on the country of origin. In several countries, all illegal entrants, including women and children, continued to be systematically detained, irrespective of increasing calls for such measures to be proportionate and less discriminatory. Where asylum-seekers were detained in a manner broadly inconsistent with Executive Committee conclusions, UNHCR sought to monitor detention facilities, secure access to legal advice for those detained, and promote alternatives to detention.

45. The necessary public support for the reception of asylum-seekers has continued to be hampered by the tendency of certain media and some politicians to mix illegal migration and refugee arrivals without sufficient clarification or concern for accuracy. Sometimes, asylum-seekers were demonized, especially during election campaigns. At such times, rhetoric, antagonism and verbal or even physical attacks, against asylum-seekers and refugees became particularly pronounced. UNHCR shared the view of those NGOs and other community leaders who responded with measures designed to show that asylum-seekers and refugees should not be made scapegoats for failed economic policies and that racism and xenophobia should not find a place in election campaigns. UNHCR's message on World Refugee Day in June 2002 was part of its efforts to project more positive images and focused on women refugees and the valuable contribution refugees make to host societies.

F. Mass influx situations

46. The largest influx during the reporting period was experienced by countries neighbouring Afghanistan, following the military intervention in that country. In particular, over 200,000 Afghans reached Pakistan. Several neighbouring States formally maintained a closed border policy and considerable numbers were displaced within Afghanistan. UNHCR, the World Food Programme (WFP), other UN agencies, and NGOs mounted sizeable protection and relief operations under difficult security and logistical conditions.

47. Elsewhere, several countries in Africa, the Caucasus, and parts of South America experienced significant new influxes of refugees requiring emergency responses on the part of UNHCR. This emergency response capacity was also tested in south-eastern Europe when some 90,000 refugees fled The former Yugoslav Republic of Macedonia in the first part of 2001, before a peace accord was reached in August 2001, enabling the vast majority to return by the end of the year. In Africa, some 77,000 refugees had fled from Liberia as the situation there continued to deteriorate in the first half of 2002. There was also an influx into Cameroon of some 20,000 Nigerians fleeing

ethnic clashes in northern Nigeria in early 2002, presenting significant challenges in a country where UNHCR had been obliged to close its office at the end of 2001, due to funding constraints.

48. The need to give higher priority to strengthening registration, particularly in mass influx situations, was recognized by the Executive Committee in a Conclusion adopted in October 2001.[18] Positive developments were noted, including in several African States. Côte d'Ivoire enacted new legislation in early 2002, which recognized the refugee ID card and asylum-seeker certificate in use in the country as giving a right of residency and authorizing work; refugees were registered as a family unit but all family members over 14 years of age received a temporary card with a photo to ensure freedom of movement. In Togo, the Government began issuing refugee identity cards to replace existing UNHCR refugee certificates, while in the Democratic Republic of the Congo, where refugees had hitherto only had temporary UNHCR cards, a comprehensive registration exercise was embarked upon in mid-2002. Meanwhile, Zambia introduced new administrative procedures allowing urban refugees to regularize their stay in the country and protect them against arbitrary arrest and detention. Individual ID cards were also provided to women refugees.

49. Developments in other regions were mixed. In Latin America, the registration in Ecuador of those fleeing the civil strife in Colombia improved, but registration at the border did not take place in another Latin American country, and only selectively in one Central American State. In Mexico, new asylum procedures included a centralized registration system. Elsewhere, in south-eastern Europe, when large numbers of refugees from The former Yugoslav Republic of Macedonia arrived in Kosovo in the first half of 2001, they were swiftly registered in coordination with the United Nations Interim Administration Mission in Kosovo (UNMIK). UNHCR designed the registration database and data collection form, prepared the registration manual and provided training and technical support throughout. Refugees were registered individually and a re-registration process in 2002 provided all individuals with a photo identity card which facilitated their return.

50. In countries elsewhere, however, those without papers, notably urban refugees, continued to be vulnerable to mass roundups, arrest and deportations. Refugees in camps in some countries were not provided with identity documentation and had to confront arbitrary arrest, intimidation, extortion, denial of assistance and of access to basic civil and social rights. In a number of countries, lack of registration of births and marriages further compounded the plight of refugees, impacting negatively on nationality status.

G. Addressing root causes - Statelessness

51. The importance of addressing the root causes of displacement, whether through conflict resolution or the fostering of human rights and democratic governance is widely recognized. Implementing such initiatives has, however, proven complex, not least because it often requires action by various actors, in particular those outside the humanitarian realm.

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[18] See Executive Committee Conclusion: "Registration of refugees and asylum-seekers" (2001) (A/AC.96/959, para. 23).

52. Among the issues which can prompt forced displacement is statelessness, or the inability to establish a legal status in any country. Very often minority groups in countries in different regions of the world have been among those affected, resulting in deprivation of basic rights. Women and children, in particular, have been disproportionately affected by problems of registering births or marriages, obtaining individual documentation, or where women have been unable to pass their legal status on to their stateless children or spouses. To address these and other issues, UNHCR has provided advice on drafting legislation, assisted in the resolution of individual cases, conducted surveys, for instance to assess numbers of people without identity or citizenship papers in specific situations, and undertaken a study on the causal relationship between the legal status of women and statelessness. Promoting accession to the international statelessness instruments has been an ongoing activity, aimed at fostering a functioning international legal framework in this area.[19]

V. SHARING OF BURDENS AND RESPONSIBILITIES - CAPACITY BUILDING TO RECEIVE AND PROTECT REFUGEES

53. The Agenda for Protection calls for "closer dialogue and multilateral 'ownership' of refugee problems and their resolution". It stresses the importance of a multilateral approach to enable responsibilities and burdens to be shared more equitably, taking into account the widely differing capacities and resources of States, as is crucial to the viability of the international refugee protection system.

A. Cooperation to strengthen protection capacities

54. Over the past year, efforts to strengthen protection capacities in refugee-hosting countries have ranged from improved functioning of decision-making processes within asylum procedures to assistance for human rights commissions and other civil society institutions, as well as for the judiciary and police forces.[20] Education and vocational training initiatives have variously targeted parliamentarians, judges, government officials, police officers, the media, NGOs, universities, and secondary schools.

55. Specific activities during the reporting period have included a refugee protection workshop for south Pacific States, the launch of a protection capacity building programme in the Asia region, a project to analyze protection capacities in selected African countries, and ongoing support to strengthen country of origin information networks in EU applicant States. At the global level, UNHCR continued to support the International Association of Refugee Law Judges in an expanding training programme for refugee law judges and decision-making officials in emerging countries of asylum. UNHCR is also in the process of drafting a Handbook on Strengthening Capacities in Host Countries for the Protection of Refugees, in cooperation with governments, NGOs, and refugees.

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[19] In the period mid-2001/2002, Hungary acceded to the 1954 Convention Relating to the Status of Stateless Persons, bringing the total of States parties to 54, while the Czech Republic, Guatemala, and Uruguay acceded to the 1961 Convention on the Reduction of Statelessness, bringing the total to 26 States parties.

[20] See "Strengthening Protection Capacities in Host Countries" (EC/GC/01/19, 19) Global Consultations, September 2001.

56. States have also engaged in very commendable capacity building activities. The Nordic countries have, for instance, continued cooperation with Baltic States, including through the "twinning" of Nordic civil servants with counterparts in Baltic States and more recently States further eastwards, in an effort to help build up their asylum determination and reception capacities. Other western European States and organizations have initiated similar capacity building and cross-border cooperation programmes with central and eastern European States, and with countries in the west of the Commonwealth of Independent States.

57. Within UNHCR, a new Protection Information Section was established as part of the Department of International Protection in December 2001, to fulfil some of the research, analysis and legal information functions previously undertaken by the former Centre for Documentation and Research. The protection learning programme (PLP) has served to create a stronger common understanding among staff of UNHCR's mandate for international protection and related international standards and to enhance their skills, knowledge and attitudes. Since PLP's launch on a pilot basis in mid-2000, some 270 staff working in over 85 countries have participated in the programme. The refugee status determination (RSD) project has also assisted UNHCR offices, and in some cases governments, in strengthening RSD procedures by providing legal advice and training, assistance with clearing backlogs of asylum claims, and developing minimum standards for UNHCR RSD procedures.

58. UNHCR has, in addition, strengthened two deployment schemes to enhance resettlement and protection capacities, respectively in cooperation with the International Catholic Migration Commission and the International Rescue Committee. Under the resettlement deployment scheme, 54 deployment positions in 2001 provided 282 months (23.5 person-years) of support to UNHCR resettlement activities in 38 field offices and in Geneva. Under the Protection Surge Capacity Project, which was launched at the end of 2001, over 20 people had been deployed by August 2002, to 11 countries in Africa, Asia, the Middle East, and the Pacific. They are assisting UNHCR in its protection work where internal protection staffing capacity is temporarily insufficient to cover all requirements, especially in situations where there are unexpected demands for protection staffing. The "Surge" project has been carefully crafted, with checks and balances built in to maintain confidentiality of sensitive protection information, and to ensure that UNHCR retains full control over its protection activities.

B. Partnerships for protection with civil society, including NGOs

59. Establishing and strengthening links with NGOs and other civil society actors are key in many of the activities outlined above. In south-eastern Europe, for instance, UNHCR has established a strong network of international or local NGOs since 1995 to assist in the protection of refugees and returnees. Over the last year, the focus has been on capacity building in fund-raising techniques and on ensuring common standards of performance to enable local NGOs to sustain themselves after the scaling-down of UNHCR operations. In Latin America, support has been provided for the lawyers of implementing partner agencies in the region. UNHCR has also co-sponsored a migrant and refugee law clinic with two prominent human rights NGOs and a university in Argentina - the first such clinic in the region. In the

Caribbean, the existing honorary liaison network of volunteer advocates is being strengthened. Another example is Slovakia, where legal clinics have been established in two universities along with a legal counsellors' network, complementing others already existing in neighbouring States.

60. More generally, the "Reach Out" refugee protection training initiative targeted mid-level NGO and Red Cross staff and was spearheaded by international NGO networks together with the International Federation of the Red Cross and Red Crescent Societies (IFRC). During the first six months of 2002, some 110 NGO and Red Cross staff underwent "Reach Out" training in India, Senegal, Ethiopia and the Russian Federation.

VI. REDOUBLING THE SEARCH FOR DURABLE SOLUTIONS

61. Timely and durable solutions are one of the principal goals of international protection and the Agenda for Protection recognizes the need for more coherence by integrating voluntary repatriation, local integration and resettlement, whenever feasible, into one comprehensive approach. For many refugees, their strongest hope is to return home and, over the last year, there have been some encouraging developments, which have permitted hundreds of thousands of refugees and IDPs to do so. At the same time, local integration efforts have been strengthened in a number of countries and resettlement has proven its multifaceted value in many situations, as part of more comprehensive approaches.

A. Voluntary repatriation

62. Ensuring sustainable voluntary return is first and foremost the responsibility of the country of origin towards its own people, but it also requires coherent and sustained action and support from the international community.[21] The immediate focus of voluntary return operations is generally on the physical and material safety of refugees and the necessary security, political and legal framework to make this possible. For voluntary return to be sustainable, it needs to be underpinned by monitoring and longer-term reintegration measures, together with the re-establishment of national protection. The latter may be achieved in part through amnesty laws and their enforcement, the re-establishment of policing agencies which comply with human rights and an independent judiciary, as well as the resolution of citizenship, property, residency and documentation problems. Development agencies also need to become active in areas of return to help bridge the gap between relief and development, so that returnees can engage in productive activities and begin to rebuild their lives. One approach to bridging this gap has been summed up by the High Commissioner as involving the "Four Rs": Repatriation, Reintegration, Rehabilitation and Reconstruction.

63. The largest number of returns over the past 12 months has been to Afghanistan, following the establishment of an interim government in December 2001, and agreement to work towards constitutional and democratic elections. Among UNHCR actions during the crisis were provision of cross-border emergency assistance, later its broader involvement with IDPs inside the country, and the crafting of solution-oriented protection

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[21] See "Voluntary Repatriation", (EC/GC/02/5), Global Consultations, May 2002.

strategies for returnees, based on extensive district profiling drawing together information on security, economic, legal and other factors relevant to the viability of return and longer-term planning.

64. In the five months since 1 March 2002, when UNHCR began to facilitate voluntary returns from Pakistan, more than 1,300,000 refugees have returned from that country. In addition, 140,000 have returned from the Islamic Republic of Iran, 10,000 from other neighbouring States, while some 400,000 IDPs within Afghanistan have also gone back. Returns from the Islamic Republic of Iran were regulated by a tripartite voluntary repatriation agreement between Afghanistan, Iran and UNHCR, concluded in April 2002, and a similar agreement was under negotiation with Pakistan at the time of writing. UNHCR is also involved in policy formulation on returns from non-neighbouring countries. As outlined in section II.A above, the security situation remains uncertain, however, and humanitarian conditions are extremely precarious, with the challenges of recovery and rehabilitation enormous. There have been three discrete sets of protection challenges. One revolved around creating a protection framework for the operation, including through the establishment of tripartite repatriation arrangements which maintain asylum space while providing for return. Another involved settling policy issues on repatriation, reintegration and the handling of UNHCR's responsibility towards IDPs. The third involved responding to particular protection concerns, such as violation of minority rights in the north and west of the country, violence against women, conditions in certain camps, lack of access of children to basic services, and detention in the north. In the face of these and other challenges, long-term support from the international community and serious commitment to peace and reconstruction in the country both remain vital.

65. Other major developments included the return of some 173,000 refugees to Sierra Leone from neighbouring countries since early 2001, following the successful completion of the disarmament process by the United Nations Mission in Sierra Leone (UNAMSIL) and the official ending of the war. In Eritrea, more than 50,000 refugees returned from Sudan and neighbouring countries after many years in exile; more are expected to do so following the declaration of cessation of refugee status in respect of this refugee group. Some 11,000 refugees also returned voluntarily from Ethiopia to north-west Somalia in the 18 months to mid-2002. Although conflict remained unresolved in the Great Lakes Region of Africa, nearly 30,000 refugees returned to the northern provinces of Burundi, where the situation was relatively more secure. Most recently, some 20,000 Angolans have spontaneously returned to their country following the cease-fire agreed in April 2002. UNHCR is not planning to start facilitating voluntary repatriation for the majority of the remaining approximately 470,000 refugees until the beginning of 2003, given the serious logistical and assistance challenges involved, and the need to plan for reintegration.

66. Voluntary repatriation operations, large or small, have generally been based on tripartite arrangements between UNHCR, the host country and the country of origin. These allow for more coordinated management of returns and enable ongoing monitoring and reintegration efforts. In Asia, some 213,000 refugees had been assisted to return voluntarily by the time East Timor achieved independence. A peace accord in one south Asian country long beset by civil war has also led to the spontaneous return of an estimated

100,000 IDPs to their homes since the beginning of 2002. UNHCR has been engaged in returnee monitoring, providing assistance to the most vulnerable, and undertaking the registration of all IDPs in the country.

67. In south-eastern Europe, initiatives in the south of the Federal Republic of Yugoslavia, such as the creation of a multi-ethnic police force, have helped curb new outbreaks of violence and foster conditions conducive to return. In The former Yugoslav Republic of Macedonia, European monitors, the North Atlantic Treaty Organization (NATO) and UNHCR have been instrumental in rebuilding confidence between communities and assisting the return of the majority of the 170,000 displaced earlier in the year. Similarly, in Bosnia and Herzegovina and in Croatia, some 100,000 refugees and IDPs have been able to go home, although there are still over 800,000 people from these countries who have not been able to return to their former homes.

68. Among the issues which can undermine the success of voluntary repatriation if left too long unattended are housing, property and land restitution problems. If refugees are not able to recover their homes and property in the country of origin or gain compensation for their loss, they may be unable to return or not able to do so sustainably. UNHCR and its partners have focused particular attention on these issues in south-eastern Europe, where conflict and displacement have meant that citizenship cannot always be proved, and/or the individual concerned may not have residency records. UNHCR has sought to ensure that local authorities implement property laws and assist with the reconstruction of properties destroyed by war. It has encouraged giving priority to vulnerable families, including female-headed households, when granting reconstruction assistance, and has promoted the rights of women and children to property, even if it was previously held in the husband's or parent's name.[22]

B. Local integration and self-reliance

69. Within the context of the Global Consultations, UNHCR has advocated more active promotion of both local integration and self-reliance.[23] The former represents one of the three durable solutions available to refugees. The latter does not presuppose that refugees will remain in the country of asylum, but is a precursor to any of the three solutions.

70. One initiative encompassing both these approaches launched in southern Africa during the reporting period was the Zambia initiative. It adopts a holistic approach aimed at linking development with relief assistance and addressing both the needs of refugees and the host population. The Government's pilot programme has focussed on an under-developed province hosting a refugee population of some 150,000. Supported by UNHCR and several donors, the initiative has been managed by the community itself. Refugees are viewed as "agents of development" who can contribute to the local economy. Many refugees in the country have been allocated enough land to enable them to produce and export sweet potatoes, thus bringing in foreign currency.

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[22] Sub-Commission on the Promotion and Protection of Human Rights, "Resolution on housing and property restitution in the context of refugees and other displaced persons", E/CN.4/SUB.2/RES/202/7, 14 August 2002.

[23] See "Local Integration" (EC/GC/02/6) Global Consultations, May 2002.

71. A key consideration for the host country in connection with local integration is when and how to facilitate access to citizenship. One example of good State practice was provided by Mexico, which issued over 1,000 land property titles to naturalized former refugees, granted citizenship to more than 1,000 longstanding refugees, and planned to naturalize a further 4,000 over the ensuing two to three years. In another positive example, the Federal Republic of Yugoslavia, cooperating closely with UNHCR, amended its legislation to permit dual citizenship.

C. Resettlement

72. Resettlement is a key element of comprehensive strategies to resolve refugee situations and can represent a tangible expression of international solidarity. It is also a vital protection tool in a number of situations, addressing the special needs of victims of trauma and those of refugees facing serious protection problems in countries of first asylum.[24] Resettlement operates as an important durable solution not only once peace is restored and the majority of refugees can return home, but also in protracted situations where refugees can neither repatriate safely nor integrate locally.

73. In 2001, a total of around 33,100 refugees were resettled under UNHCR auspices, about one third of the total number of refugees resettled worldwide. Twenty-five countries received resettled refugees, although just ten accounted for 98 per cent of resettlement arrivals. However, even if the numbers received may be limited, as for instance in emerging resettlement countries in Latin America or Africa, an important message of commitment is conveyed to host countries and countries of origin absorbing large numbers of fleeing or returning refugees. The tendency in established resettlement countries has been to maintain quotas, although programmes in several countries were stalled for several months after 11 September 2001, as new security requirements were introduced with the result that quotas for the year were not filled.

74. Expanding the number of resettlement countries has remained a challenge. Strategies pursued by UNHCR have included measures to consolidate emerging resettlement country programmes through twinning projects, and putting more human and financial resources into capacity-building. New resettlement programmes have been actively promoted in countries deemed to have sufficient capacity, including in some European countries. In this respect, the support and expertise of traditional resettlement countries and of NGOs remain vital. UNHCR, together with a number of governments and NGOs, has cooperated in the production of a Handbook to Guide the Integration of Resettled Refugees.[25]

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[24] See UNHCR's updated Resettlement Handbook issued July 2002; "Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities" (EC/GC/02/7), Global Consultations, May 2002.

[25] UNHCR, "Pathways to Welcoming and Rebuilding: A Handbook to Guide Reception and Integration of Resettled Refugees", June 2002 draft for review, available on <www.unhcr.ch>.

75. UNHCR has also continued efforts to minimize the potential for resettlement fraud, including by reinforcing management responsibilities, devising new tools and expanding training arrangements. The organization has, moreover, focused new attention on the unique circumstances and resettlement needs of *prima facie* refugees. Expending the potential of resettlement as a tool of protection and as a durable solution remains a key priority for UNHCR.

VII. MEETING THE PROTECTION NEEDS OF REFUGEE WOMEN AND REFUGEE CHILDREN

76. The protection of refugee women and refugee children is identified by the Agenda for Protection as both a core activity and an organizational priority for UNHCR. Although a whole range of international norms, policies and guidelines have been developed, there is a gap in their application and implementation, partly as a result of resource constraints, but also because of uneven priorities and accountability both at the level of institutions and within the international community.[26]

77. Many of the most salient protection concerns facing refugee women and refugee children today are outlined earlier in this Note. Such concerns include safety and security, sexual exploitation and violence; equal access to humanitarian assistance; registration and documentation; the gender and age-sensitive application of refugee law and procedures; and trafficking. In relation to refugee children, particular concerns include separation, military recruitment, access to asylum procedures, education, and detention. This section looks at those issues not already covered above.

A. Refugee women

78. In December 2001, the High Commissioner made "five commitments" to improve the protection of refugee women and girls. These goals are articulated in practical and measurable terms and provide a clear focus for UNHCR's work.

79. The first commitment is to encourage active participation of women in all refugee community management and leadership committees, the target being 50 per cent female representation on such committees. UNHCR actions to this end have included work with refugee women to build leadership skills, initiatives to enhance education and vocational training, and work with refugee men to encourage women to stand for election. By way of positive example, activities to enhance the leadership skills of indigenous displaced women in Colombia have been particularly effective. UNHCR initiatives have also included assistance in establishing refugee women's councils in Bulgaria and Belarus, while this year the Kosovo Women's Initiative has worked with local women's councils to involve women in return communities and promote reconciliation and peaceful coexistence.

80. The second commitment to provide individual registration documents for all refugee women and men can be challenging at a time of financial constraint and in the face of traditional roles of men as heads of household.

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[26] See also "Refugee Women" (EC/GC/02/8); and "Refugee Children" (EC/GC/02/9), Global Consultations, May 2002.

Noteworthy UNHCR projects over the last year have included the issue of individual identification cards to urban refugees in Zambia and the Central African Republic, while in Burundi women were enabled to request their own cards. In the Middle East, Egypt was, for example, one State providing individual registration documents and efforts were underway to improve the situation in other countries in the region.

81. Measures to respond to the third commitment to strengthen efforts to prevent and respond to sexual and gender-based violence in refugee situations are outlined in section II.C above. The fourth commitment, to ensure refugee women's participation in the management and distribution of food and other aid, is an important strategy to empower women and prevent sexual exploitation. Despite major constraints, such as traditional cultural beliefs about the role of women and already onerous workloads, refugee women around the world regularly participated in distribution of supplies. For their part, WFP and UNHCR reconfirmed their commitment to empowering women through food distribution in a revised memorandum of understanding.

82. Implementation of the fifth commitment to provide sanitary materials to all women and girls in all UNHCR assistance programmes focused increased attention on this issue. For example, UNHCR has, taken initiatives in African and Asian countries to purchase materials, which women then converted them into sanitary packs, in the context of income-generation and self-help activities.

83. Within UNHCR, training opportunities for staff have been improved by tailoring "people-oriented planning" materials to specific refugee situations. In addition, a UNHCR training kit on the gender perspective on refugee protection, completed in June 2002, brings together core documents on gender mainstreaming and comprehensive training materials, while the Protection Learning Programme also mainstreams gender and age perspectives with a particular focus on sexual and gender-based violence.

B. Refugee children

84. Essential to any action on behalf of refugee children is the promotion and protection of the best interests of children. Issues concerning the trafficking of girls, the military recruitment of adolescents and children, and sexual violence and exploitation of children are outlined above. This section looks briefly at concerns not yet covered, namely education and the treatment of separated children.

85. More generally, the May 2002 independent evaluation mentioned in section II.C above found that the organization's policies and guidelines on refugee children are strong, with some good examples of work with refugee children. They included, for instance, work in the United Republic of Tanzania to address some of the more complex issues related to child-headed households, separated children, unattended young girls, socio-cultural beliefs about HIV/AIDS, and the impact of ration cuts. It nevertheless also found that children were "often overlooked and considered 'on-the-sidelines' of core protection and assistance work and that organizational issues impeded implementation.[27]

[27] See footnote 3 above.

86. Approximately one million refugee children and adolescents are enrolled in UNHCR-supported education programmes, of whom approximately 40 per cent are girls and young women. Of those enrolled, eight per cent are in pre-school, 82 per cent in primary, nine per cent in secondary and one per cent in tertiary education programmes. United Nations agencies have continued to promote increased access to education, both as a fundamental human right and a means of reducing the risk of military recruitment, forced labour and prostitution among refugee children. Meeting the educational needs of child-headed households, children affected by HIV/AIDS and orphans has presented particular challenges, as has the provision of emergency education and secondary education. The transition from education in refugee camps to integration into national schools has also been an issue. One approach adopted, for example in Côte d'Ivoire, involved UNHCR negotiating a memorandum of understanding on this issue and assisting with the construction of new schools in areas with high refugee populations.

87. The issue of separated children has been of growing concern in recent years, since such children are particularly vulnerable to sexual exploitation and abuse, military recruitment, child labour, denial of access to education and basic assistance, and can be particularly traumatized by detention. To help reunite children with their families, UNHCR has in cooperation with UNICEF, the International Committee of the Red Cross (ICRC) and specialized NGOs, strengthened measures to trace and reunify separated children by improving coordination, the accuracy of databases, and using tools such as "photo tracing albums" and radio broadcasts.

88. In Europe, action taken as part of the Separated Children in Europe Programme, a joint initiative with the International Save the Children Alliance, has resulted in the adoption of asylum legislation in certain central and eastern European countries, which includes specific provisions to ensure the protection of separated children seeking asylum. In western Europe, increased arrivals of separated minor children in Ireland led, for instance, to an informal agreement among all parties involved on special procedures for processing the asylum claims of such children, which were partially formalized in interim guidelines issued in late 2001. Another example is Austria, where arrangements were put in place as regards the care and maintenance of separated child asylum-seekers so that they can initially be accommodated in clearing houses for three months, until a proper solution can be found. Elsewhere, new legislation in New Zealand, expressly provided for the needs of unaccompanied minors who may seek asylum. In Canada, a roundtable in October 2001 on the situation of separated asylum-seeking children brought together federal and provincial authorities, child welfare agencies, refugee and child protection advocates and legal practitioners, and identified helpful approaches to filling gaps in the provision of protection and care.

VIII. CONCLUSION

89. The foregoing description of problems, responses and positive advances is by no means exhaustive. Developments have been reported selectively, by way of example. It does, however, provide a useful overview of the range of challenges today confronting refugee protection and the implementation of the 1951 Convention regime as an important part thereof. The goals and objectives

of the Agenda for Protection were chosen as the frame within which to present this analysis in order to underline the direct relevance of the Agenda to proper and principled management of refugee and asylum dilemmas today.

90. Where, for example, it encourages prevention of age-based and sexual and gender-based violence, or very concrete measures to empower refugee communities for their own protection, it responds, not alone but not least, to the harsh experiences of women and girls in the camps in West Africa. Where it calls for greater respect for the civilian character of asylum and sets the objective of clarifying standards and procedures - while improving cooperation to achieve this - it is responding, for example, to the militarization of camps in many parts of the world, which endangers the lives of their inhabitants and the surrounding community.

91. The Agenda's encouragement to strengthen protection capacities at the national level or build burden and responsibility-sharing into more comprehensive approaches, reflects the very real inequalities marking assistance and protection levels among States, in the developed and the developing world. Where the Agenda strives to promote understandings on protection safeguards in rescue-at-sea, this serves to buttress a time-honoured tradition which came under threat during the reporting period. The ideas in the Agenda for promoting consolidated and better harmonized asylum procedures, and for strengthening asylum systems generally, are partly in response to the reality of their abuse by some, to cumbersome procedures in place in a number of countries, and to the need to identify quickly those who are in need of international protection and those who are not. The Agenda's focus on strengthening the search for durable solutions and on improving the planning and implementation of repatriation programmes must be seen in the context of programmes like the Afghan or Ethiopian operations. It is securing commitment to the progressive and effective implementation of the Agenda that is now the challenge.

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Fifty-third session

AGENDA FOR PROTECTION

ADDENDUM

I. INTRODUCTION

In response to the numerous challenges confronting refugee protection for States, as well as for the Office of the United Nations High Commissioner for Refugees (UNHCR), and on the occasion of the 50th anniversary of the *1951 Convention relating to the Status of Refugees*, UNHCR set in train, in December 2000, the *Global Consultations on International Protection*. The purpose was to provoke both reflection and action to revitalize the 1951 Convention framework and to equip States better to address the challenges in a spirit of dialogue and cooperation.[1]

The Agenda for Protection is the product of this consultative process. It reflects a wide cross-section of concerns and recommendations of States, intergovernmental organizations, non-governmental organizations (NGOs), as well as refugees themselves. The Agenda focuses on suggested activities which would strengthen international protection of asylum-seekers and refugees and improve implementation of the 1951 Convention and its 1967 Protocol. These activities flow from the Declaration adopted unanimously by States Parties to the 1951 Convention and/or its 1967 Protocol at the Ministerial Meeting of States Parties, organized jointly by Switzerland and UNHCR on 12-13 December 2001, to commemorate the Convention's 50th anniversary.[2] This Declaration recognizes the enduring importance of the 1951 Convention and 1967 Protocol, reaffirms political commitment to upholding the values and principles they embody, and urges all States to consider ways to strengthen their implementation. It also affirms the need for closer cooperation between States Parties and UNHCR to facilitate UNHCR's duty of supervising the

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[1] For information on the Global Consultations on International Protection, please consult the Global Consultations page of UNHCR's website at www.unhcr.ch.

[2] See Report of *the Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, HCR/MMSP/2001/10, available on the *Global Consultations* page of UNHCR's website at www.unhcr.ch.

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application of these instruments.[3] The Declaration is premised on more robust international cooperation, within an agreed framework of basic principles.

This Declaration serves as the framework for the Agenda for Protection, which in turn is intended to guide action by UNHCR, together with States, NGOs and other protection partners, in furthering protection objectives during the years ahead.[4]

II. DECLARATION OF STATES PARTIES

The Declaration of States Parties sets out a number of important understandings about the significance of the 1951 Convention and its 1967 Protocol within the broader international framework for refugee protection. The Declaration serves, within the Agenda for Protection, as the framework for its goals, objectives and the activities to reach them. It is an integral part of the Agenda. The numbering of the following paragraphs corresponds to that of the original text, as adopted.

Preamble

We, representatives of States Parties to the 1951 Convention relating to the Status of Refugees and/or its 1967 Protocol, assembled in the first meeting of States Parties in Geneva on 12 and 13 December 2001 at the invitation of the Government of Switzerland and the United Nations High Commissioner for Refugees (UNHCR),

1. Cognizant of the fact that the year 2001 marks the 50th anniversary of the 1951 Geneva Convention relating to the Status of Refugees,

2. Recognizing the enduring importance of the 1951 Convention, as the primary refugee protection instrument which, as amended by its 1967 Protocol, sets out rights, including human rights, and minimum standards of treatment that apply to persons falling within its scope,

3. Recognizing the importance of other human rights and regional refugee protection instruments, including the 1969 Organization of African Unity (OAU) Convention governing the Specific Aspects of the Refugee Problem in Africa and the 1984 Cartagena Declaration, and recognizing also the importance of the common European asylum system developed since the 1999 Tampere European Council Conclusions, as well as the Programme of Action of the 1996 Regional Conference to Address the Problems of Refugees, Displaced Persons, Other Forms of Involuntary Displacement and Returnees in the Countries of the Commonwealth of Independent States and Relevant Neighbouring States,

4. Acknowledging the continuing relevance and resilience of this international regime of rights and principles, including at its core the

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[3] See *Declaration of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, HCR/MMSP/2001/09, available on the *Global Consultations* page of UNHCR's website at www.unhcr.ch.

[4] The Agenda for Protection is the outcome of a process which has generated considerable support across the board for the actions contained in it. It is a statement of goals and objectives and an inventory of actions to reinforce the international protection of refugees. The progressive implementation of this framework will require, in certain instances, additional consultation and will be subject to the availability of resources and commitment by all concerned.

principle of *non-refoulement*, whose applicability is embedded in customary international law,

5. Commending the positive and constructive role played by refugee-hosting countries and recognizing at the same time the heavy burden borne by some, particularly developing countries and countries with economies in transition, as well as the protracted nature of many refugee situations and the absence of timely and safe solutions,

6. Taking note of complex features of the evolving environment in which refugee protection has to be provided, including the nature of armed conflict, ongoing violations of human rights and international humanitarian law, current patterns of displacement, mixed population flows, the high costs of hosting large numbers of refugees and asylum-seekers and of maintaining asylum systems, the growth of associated trafficking and smuggling of persons, the problems of safeguarding asylum systems against abuse and of excluding and returning those not entitled to or in need of international protection, as well as the lack of resolution of long-standing refugee situations,

7. Reaffirming that the 1951 Convention, as amended by the 1967 Protocol, has a central place in the international refugee protection regime, and believing also that this regime should be developed further, as appropriate, in a way that complements and strengthens the 1951 Convention and its Protocol,

8. Stressing that respect by States for their protection responsibilities towards refugees is strengthened by international solidarity involving all members of the international community and that the refugee protection regime is enhanced through committed international cooperation in a spirit of solidarity and effective responsibility and burden-sharing among all States,

Operative Paragraphs

1. Solemnly reaffirm our commitment to implement our obligations under the 1951 Convention and/or its 1967 Protocol fully and effectively in accordance with the object and purpose of these instruments;

2. Reaffirm our continued commitment, in recognition of the social and humanitarian nature of the problem of refugees, to upholding the values and principles embodied in these instruments, which are consistent with Article 14 of the Universal Declaration of Human Rights, and which require respect for the rights and freedoms of refugees, international cooperation to resolve their plight, and action to address the causes of refugee movements, as well as to prevent them, *inter alia*, through the promotion of peace, stability and dialogue, from becoming a source of tension between States;

3. Recognize the importance of promoting universal adherence to the 1951 Convention and/or its 1967 Protocol, while acknowledging that there are countries of asylum which have not yet acceded to these instruments and which do continue generously to host large numbers of refugees;

4. Encourage all States that have not yet done so to accede to the 1951 Convention and/or its 1967 Protocol, as far as possible without reservation;

5. Also encourage States Parties maintaining the geographical limitation or other reservations to consider withdrawing them;

6. Call upon all States, consistent with applicable international standards, to take or continue to take measures to strengthen asylum and render protection more effective including through the adoption and implementation of national refugee legislation and procedures for the determination of refugee status and for the treatment of asylum-seekers and refugees, giving special attention to vulnerable groups and individuals with special needs, including women, children and the elderly;

7. Call upon States to continue their efforts aimed at ensuring the integrity of the asylum institution, *inter alia*, by means of carefully applying Articles 1F and 33 (2) of the 1951 Convention, in particular in light of new threats and challenges;

8. Reaffirm the fundamental importance of UNHCR as the multilateral institution with the mandate to provide international protection to refugees and to promote durable solutions, and recall our obligations as State Parties to cooperate with UNHCR in the exercise of its functions;

9. Urge all States to consider ways that may be required to strengthen the implementation of the 1951 Convention and/or 1967 Protocol and to ensure closer cooperation between States parties and UNHCR to facilitate UNHCR's duty of supervising the application of the provisions of these instruments;

10. Urge all States to respond promptly, predictably and adequately to funding appeals issued by UNHCR so as to ensure that the needs of persons under the mandate of the Office of the High Commissioner are fully met;

11. Recognize the valuable contributions made by many non-governmental organizations to the well-being of asylum-seekers and refugees in their reception, counselling and care, in finding durable solutions based on full respect of refugees, and in assisting States and UNHCR to maintain the integrity of the international refugee protection regime, notably through advocacy, as well as public awareness and information activities aimed at combating racism, racial discrimination, xenophobia and related intolerance, and gaining public support for refugees;

12. Commit ourselves to providing, within the framework of international solidarity and burden-sharing, better refugee protection through comprehensive strategies, notably regionally and internationally, in order to build capacity, in particular in developing countries and countries with economies in transition, especially those which are hosting large-scale influxes or protracted refugee situations, and to strengthening response mechanisms, so as to ensure that refugees have access to safer and better conditions of stay and timely solutions to their problems;

13. Recognize that prevention is the best way to avoid refugee situations and emphasize that the ultimate goal of international protection is to achieve a durable solution for refugees, consistent with the principle of *non-refoulement*, and commend States that continue to facilitate these solutions, notably voluntary repatriation and, where appropriate and feasible, local integration and resettlement, while recognizing that voluntary repatriation in conditions of safety and dignity remains the preferred solution for refugees;

14. Extend our gratitude to the Government and people of Switzerland for generously hosting the Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees.

III. PROGRAMME OF ACTION

Following on from the Declaration of States Parties, a Programme of Action is suggested which, if implemented, should progressively reinforce refugee protection over a multiyear period. The Programme of Action has six goals:

1. Strengthening implementation of the 1951 Convention and 1967 Protocol;
2. Protecting refugees within broader migration movements;
3. Sharing of burdens and responsibilities more equitably and building of capacities to receive and protect refugees;
4. Addressing security-related concerns more effectively;
5. Redoubling the search for durable solutions; and
6. Meeting the protection needs of refugee women and refugee children.

The Programme's goals are inter-related and there are cross-cutting themes. These include responsibility and burden-sharing, as well as a gender and age-sensitive application of the regime as a whole. Suggested follow-up activities relating to refugee women and refugee children are dealt with specifically in Goal 6 and, in addition, incorporated throughout the Programme of Action.

Goal 1. Strengthening implementation of the 1951 Convention and 1967 Protocol

Implementation of the 1951 Convention and its 1967 Protocol, which together remain the foundation for international refugee protection, has to be strengthened. In the first instance, the base of State Parties has to be broadened, bringing in all the geographic regions in a more balanced way. More harmonized approaches to refugee status determination, as well as to the interpretation of the 1951 Convention and to the use of complementary forms of protection, are also called for. Resolute responses to the root causes of refugee movements, more effective and predictable responses to mass influx situations, improved reception policies and an environment generally more conducive to refugee protection would contribute to better implementation of the refugee protection regime. Appropriate measures to strengthen supervision of implementation of the 1951 Convention and 1967 Protocol need to be put in place. Refugee protection would also be enhanced by accession to, and effective implementation of, regional refugee instruments, as well as key human rights instruments. There are 12 identified objectives, together with various activities directed towards their realisation, under this overall goal:

1. Universal accession to the 1951 Convention and 1967 Protocol

- UNHCR to carry out a survey of the difficulties States have in acceding to or in implementing the 1951 Convention/1967 Protocol, with a view to assisting States to overcome them.
- States Parties to contribute actively to UNHCR's ongoing accession campaign, which aims to achieve universal accession to the 1951 Convention/1967 Protocol regime.
- States Parties and regional organizations to promote accession in their bilateral contacts and in multilateral fora and inform UNHCR about such initiatives.
- States Parties to give consideration to withdrawing reservations lodged at the time of accession and, where appropriate, to work towards lifting the geographical reservation.

- States Parties, which have not already done so, to ensure that the fundamental principles of the 1951 Convention are incorporated, where this is necessary according to the national legal system, into domestic legislation.

2. Improved individual asylum procedures

- States, through UNHCR's Executive Committee (ExCom), to consider updating past ExCom guidance on the recommended framework for asylum procedures, with a view to promoting greater harmonization in the practice of States.[5]
- States to grant access to asylum procedures and to ensure that their asylum systems provide for effective and fair decision-making, done promptly and with enforceable results, including as regards the return and readmission of those found not to be in need of international protection. Return is important to counter misuse of asylum procedures and maintain the integrity of asylum systems.[6]
- States that have not yet done so to legislate for and set up asylum procedures, benefiting from UNHCR assistance and ExCom guidance. States with established asylum procedures to consider how best to support these initiatives, including with financial and technical assistance where necessary, as a tangible form of international cooperation.[7]
- States to introduce or, as necessary, enhance gender and age-specific safeguards in asylum procedures, with due weight being accorded to the principle of family unity and bearing in mind the requirements of the *Convention on the Rights of the Child* and the *Convention on the Elimination of All Forms of Discrimination against Women*, as well as related UNHCR guidelines; the special needs of particularly vulnerable persons, such as victims of torture or persons with disabilities, should also benefit from necessary safeguards.[8]
- States and UNHCR to work to ensure that claims lodged by female and child asylum-seekers take properly and sensitively into account gender and age specificities, including forms of persecution which have specific gender or age-related aspects.
- States and UNHCR to undertake consultations, preferably within ExCom, on ways to better manage the challenge of increasing claims to refugee status from unaccompanied and separated child asylum-seekers.
- UNHCR to engage in intensified training and in-house capacity-building, while committing more resources to improve the quality and consistency globally of its mandate refugee status determination processes.

3. Provision of complementary forms of protection to those who might not fall within the scope of the 1951 Convention, but require international protection

- Within the framework of its mandate, ExCom to work on a Conclusion containing guidance on general principles upon which complementary forms

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[5] See Conclusion No. 8 (XXVIII) 1977, on the determination of refugee status (A/AC.96/549, para. 53.6); Conclusion No. 30 (XXXIV) 1983 (A/AC.96/631, para. 97.2), on the problem of manifestly unfounded or abusive applications for refugee status or asylum.

[6] See also Goal 2, objective 7.

[7] See also Goal 3, objective 2.

[8] UNHCR's *Guidelines on Gender-Related Persecution* (HCR/GIP/02/01, May 2002), UNHCR's *Guidelines on the Protection of Refugee Women* (Geneva, 1991), UNHCR's *Sexual Violence against Refugee Women: Guidelines on Prevention and Response* (Geneva, 1995 - under revision) and UNHCR's *Refugee Children: Guidelines on Protection and Care* (1994). See also Goal 4, objective 4.

of protection should be based, on the persons who might benefit from it, and on the compatibility of these protections with the 1951 Convention and other relevant international and regional instruments.

- States to consider the merits of establishing a single procedure in which there is first an examination of the 1951 Convention grounds for refugee status, to be followed, as necessary and appropriate, by the examination of the possible grounds for the grant of complementary forms of protection.

4. Exclusion of those undeserving of international refugee protection, including those guilty of terrorist acts

- Given that combating terrorism is primarily a criminal law enforcement issue, but also that abuse of the asylum channel must be prevented, States to put in place measures, with appropriate legal safeguards, to give effect to the exclusion clauses of the Convention, which might include the following: incorporation of the exclusion clauses of the Convention into national legislation; closer cooperation and improved information sharing between immigration/asylum authorities, law enforcement authorities, and, where appropriate, UNHCR; and priority processing of asylum applications by expert personnel where there is a suspicion that the claimant might fall under Article 1 F of the 1951 Convention.[9]
- States to apply the exclusion clauses in a manner which is not prejudicial to any well-founded claim to refugee status by family members of individuals subject to exclusion proceedings.
- UNHCR to revise its *Guidelines on Exclusion* (1996).

5. Closer cooperation in the supervision of implementation of the 1951 Convention and 1967 Protocol

- States, UNHCR and NGOs to identify and work on practical modalities to ensure better cooperation between UNHCR and States Parties in strengthening implementation of the 1951 Convention and 1967 Protocol, and in facilitating UNHCR's duty to supervise international refugee instruments.
- In this regard, and to maintain the positive momentum of the *Global Consultations* process, UNHCR to continue to provide a forum for high-level and participatory dialogue on protection issues, emerging global themes and challenges, as well as specific protection situations, particularly those of an urgent character.
- In this regard also, States to provide more information on their achievements and problems as regards protection in regular meetings of the Standing Committee, paying special attention to protection issues related to women and children.

6. More harmonized interpretation of the 1951 Convention in light of developments in refugee law

- UNHCR to publish the background papers and summary conclusions of the expert roundtables held within the *Global Consultations* framework.
- UNHCR to produce complementary guidelines to its *Handbook on Procedures and Criteria for Determining Refugee Status*, drawing on applicable international legal standards, on State practice, on jurisprudence and

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[9] The application of exclusion clauses should, as appropriate, take closely into account any relevant pronouncements of the Security Council.

using, as appropriate, the inputs from the debates in the *Global Consultations'* expert roundtable discussions.

- UNHCR to continue to organize expert discussions, also involving State practitioners, as the issue might require.
- UNHCR to continue to participate in initiatives and studies organized or undertaken by States, regional organizations and other partners, including NGOs and universities, focusing on refugee law.

7. Further standard-setting

- Consistent with the recognition in the Declaration of States Parties that the international refugee protection regime should be developed further, as appropriate, UNHCR to explore areas that would benefit from further standard-setting, such as ExCom Conclusions or other instruments to be identified at a later stage.

8. Enhanced respect for refugees

- States, UNHCR and other relevant actors to foster a positive and respectful attitude towards refugees, including through,
  - encouraging political leaders to uphold the basic values underpinning the 1951 Convention and 1967 Protocol;
  - making better use of and more broadly distributing public awareness materials which can sensitize civil society to the situation of refugees, including those developed by UNHCR (e.g. as developed for the *Respect*; *Stereotypes*; and *Lanterna Magica* campaigns), as well as educational material (pamphlets and brochures for refugee children and teenagers; and education kits, including teachers' guides).
- States to develop public awareness programmes, with the participation of refugees, which focus on the positive social and cultural contributions that refugees can make, building into these programmes greater use of educational tools such as public service announcements, sports, music and entertainment, in a way which promotes positive messages about tolerance, pluralism and common values, as well as bridge-building.
- States to take measures to combat racism, racial discrimination and xenophobia directed against asylum-seekers and refugees.

9. Adequate reception arrangements

- ExCom to consider adopting a basic framework for reception policies, drawing on applicable international legal standards, in the form of an ExCom Conclusion.
- UNHCR to develop *Guidelines on the Reception of Asylum-Seekers*, paying explicit attention to gender and age-specific considerations, as well as the special needs of victims of torture and/or of violence or the disabled, as well as those with special medical needs.
- UNHCR to monitor reception arrangements and to include information on developments, including difficulties encountered by asylum-seekers, as well as any recommendations, in its reporting on protection situations in various regions to ExCom.
- States more concertedly to explore appropriate alternatives to the detention of asylum-seekers and refugees, and to abstain, in principle, from detaining children.
- States, UNHCR, NGOs and other partners to work with refugee communities to address the needs of unaccompanied and separated child asylum-seekers and refugees, including, as necessary, their temporary placement in foster

families or appointment of State or non-State guardians, and the monitoring of such arrangements.

10. More effective and predictable responses to mass influx situations

- UNHCR to prepare a comparative study on protection responses to mass influxes, which will look at best practices from UNHCR's experience, as well as take into account the views of States, and, at the same time, explore the need for another authoritative text, in addition to the 1951 Convention the 1969 OAU Convention.
- UNHCR to develop and disseminate guidelines to clarify the procedural aspects of exclusion in the context of group determination on a *prima facie* basis.
- States and UNHCR to ensure that emergency responses to mass influxes include community-based activities addressing the specific protection needs of refugee women and refugee children, as well as of vulnerable groups.[10]
- States to promote with the United Nations system, especially UNHCR, more effective engagement in early warning and contingency planning, as appropriate, both to enable countries to better prepare themselves for a potential mass influx of refugees and to ensure more adequate and timely support from the international community.

11. Better registration and documentation of refugees

- In keeping with the *Conclusion on Registration of Refugees and Asylum-Seekers* (No. 91 (LII) (2001)), and bearing in mind confidentiality requirements regarding the use of data, States to register and document female and male refugees and asylum-seekers on their territory on an individual basis as quickly as possible upon their arrival, in a manner which contributes to improving their security, their access to essential services and their freedom of movement.
- UNHCR to work with States towards ensuring the provision of financial and technical support, including as regards training, equipment, and materials to enable, particularly, developing host States to undertake registration and issuance of documents to refugees, in recognition that this is primarily a State responsibility.
- States, UNHCR and relevant partners to ensure that those carrying out registration of camp populations and registration for voluntary repatriation are adequately trained, including in gender and age-sensitive interviewing techniques.
- States and other relevant partners to consider how to make available and accessible their expertise, including through the provision of human resources, to assist UNHCR's ongoing effort to improve its own systems for registration and documentation of refugees.
- UNHCR to issue operational standards and guidelines with regard to registration and population data management, revise its 1994 Registration Guide and develop registration and data management training modules. In addition, UNHCR to strengthen field registration support (methodologies, systems, materials, training and support missions), including by drawing on States' existing expertise and human resources.
- States and UNHCR to introduce new techniques and tools to enhance the identification and documentation of refugees and asylum-seekers, including centrally, biometric features, and to share these with a view towards developing a more standardized worldwide registration system.

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[10] This would include: separated children, the handicapped, the chronically ill, single females, single heads of household, the elderly and victims of torture.

- States to provide necessary documents relating to civil status (e.g. birth, marriage, divorce, death), benefiting from the support and cooperation of UNHCR, where appropriate.
- States, UNHCR and other relevant partners to use registration data to identify and make specific assistance and protection arrangements, where appropriate, for: women with any special protection concerns, unaccompanied and separated children, child- and single-headed households, as well as handicapped refugees and the elderly.

12. More resolute responses to root causes of refugee movements

- States to give greater priority to dealing with root causes, including armed conflict, and to ensure relevant intergovernmental agendas reflect this priority.
- States to use appropriate means at their disposal, in the context of their foreign, security, trade, development and investment policies, to influence developments in refugee-producing countries in the direction of greater respect for human rights, democratic values and good governance.
- States to support the work of the United Nations in the areas of conflict-prevention, conflict-resolution, peace-keeping and peace-building in war-torn States.
- International and regional human rights bodies, as well as development actors, to be encouraged to examine how they can make a more direct impact on refugee situations generated by human rights violations and inter-group disputes, in particular by extending financial and/or technical support to countries of origin willing to establish national human rights commissions, and to put in place measures to improve the functioning of the judiciary and police forces.
- States to give renewed consideration to ratifying the *1954 Convention relating to the Status of Stateless Persons* and the *1961 Convention on the Reduction of Statelessness*, with a view to early accession.
- UNHCR to seek information from States on steps they have taken to reduce statelessness and to meet the protection needs of stateless persons, in keeping with ExCom Conclusion No. 78 (XLVI) (1995), and to report to ExCom on this survey, together with recommendations which might assist in further improving their situation.
- UNHCR, through its field presence, to act as a catalyst, where appropriate, in mitigating circumstances which might lead to refugee flows.

Goal 2. Protecting refugees within broader migration movements

UNHCR's clearly defined responsibilities for refugees and other persons of concern do not extend to migrants generally. It is, at the same time, a fact that refugees often move within broader mixed migratory flows. At the same time, the insufficiency of viable, legal migration options is an added incentive for persons who are not refugees to seek to enter countries through the asylum channel, when it is the only possibility effectively open to them to enter and remain. It is important, given not least the effects on and risks to them, that refugees receive protection without having to resort to a criminal trade that will put them in danger. There is therefore a need to achieve a better understanding and management of the interface between asylum and migration, both of which UNHCR should promote, albeit consistent with its mandate, so that people in need of protection find it, people who wish to migrate have options other than through resort to the asylum channel, and unscrupulous smugglers cannot benefit through wrongful manipulation of available entry possibilities. To improve the protection of refugees within

broader migration movements and to counter misuse of asylum systems, seven objectives and accompanying action have been identified:

1. Better identification of and proper response to the needs of asylum-seekers and refugees, including access to protection within the broader context of migration management

- States to ensure, taking into account relevant multilateral and cross-sectoral consultations, that immigration-control measures are tempered with adequate protection safeguards which appropriately differentiate between refugees, on the one hand, and persons not in need of international protection, on the other, to enable protection needs to be met within the agreed international framework.
- States to develop a coherent policy agenda on migration and asylum that strikes a proper balance between migration control priorities and refugee protection imperatives, and which might include transparent and equitable immigration policies for the purposes of employment and family reunification.
- UNHCR to develop *Guidelines on Safeguards for Interception Measures*, together with a training package for States, intergovernmental organizations and NGOs.
- ExCom to consider adopting a Conclusion focusing on protection safeguards in interception measures.
- UNHCR, States and other stakeholders (e.g. the International Maritime Organization) to seek to reach common understandings on responsibilities in the context of rescue at sea of asylum-seekers and refugees, including with regard to rescue itself, the disembarkation of those rescued and the solutions to be pursued.
- In the broad context of migration management, States to consider acceding to the 1990 *United Nations Convention on the Protection of the Rights of all Migrant Workers and Members of their Families*, and relevant ILO Conventions (notably nos. 97 and 143).

2. Strengthened international efforts to combat smuggling and trafficking

- States to consider acceding to the *2000 United Nations Convention against Transnational Organized Crime* and its *Protocols (against the Smuggling of Migrants by Land, Sea and Air; and to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children)*.
- States to ensure that their own asylum processes are open to receiving claims from individual trafficked persons, especially women and girls who can base their claim to asylum on grounds which are not manifestly unfounded.
- States to publicize penalties for those engaged in smuggling of and trafficking in people.
- UNHCR to explore the convening of an experts meeting focusing on the protection needs of trafficked children.

3. Better data collection and research on the nexus between asylum and migration

- States to generate and share more detailed, comparable, sex- and age-disaggregated statistics on the size, type and composition of migratory flows, to enable a qualitative analysis of the problem and shed light on the causes and ramifications of such international movements. In particular, States to consider tabulating data according to the revised

United Nations Recommendations on Statistics of International Migration (New York, 1998).

- States to examine how to collect and share information on undocumented migration and irregular movers, including on smuggling, travel routes, etc.
- In this regard, the International Organization for Migration (IOM) to be encouraged to carry out a detailed study, in consultation with relevant States and intergovernmental organizations, on migration dynamics, including push and pull factors. UNHCR and IOM to explore with regional and other organizations[11] the undertaking of similar studies or publication of existing data for the regions they cover.

4. Reduction of irregular or secondary movements

- Bearing in mind ExCom Conclusion No. 58 (XL) of 1989 on the *Problem of Refugees and Asylum-Seekers Who Move in an Irregular Manner from a Country in which They had already Found Protection*, UNHCR, in cooperation with relevant partners, to analyze the reasons for such movements, and propose strategies to address them in specific situations, predicated on a more precisely articulated understanding of what constitutes effective protection in countries of first asylum, and taking into account international solidarity and burden-sharing.
- UNHCR to work with States of origin, transit and destination and other partners, including IOM, on a package of measures which might be brought into play, as part of a comprehensive plan of action, for particular irregular or secondary movement situations.

5. Closer dialogue and cooperation between UNHCR and IOM

- UNHCR and IOM to deepen cooperation, within the framework of the *Action Group on Asylum and Migration* (AGAMI), established in November 2001, working in consultation with interested States and other intergovernmental organizations[12] and NGOs, with the aim of furthering understanding of the nexus between asylum and migration and enhancing each organization's capacity to contribute to States' efforts to develop policies and programmes on asylum and migration. In this regard, AGAMI to identify and analyze the issues within the migration/asylum nexus, deepen understanding of the nexus, address conceptual[13] as well as specific operational[14] issues and promote better information-sharing.
- UNHCR to keep States and other interested actors informed of the consultation process within AGAMI.

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[11] Such as the Asia-Pacific Consultations on Refugees, Displaced Persons and Migrants (APC), the Council of Europe, the Economic Community of West African States (ECOWAS), the Economic Cooperation Organization (ECO), the European Union (EU), the Inter-Governmental Consultations on Asylum, Refugee and Migration Policies in Europe, North America and Australia (IGC), the Organization for Security and Cooperation in Europe (OSCE), the South Asian Association for Regional Cooperation (SAARC) and the Southern African Development Community (SADC).

[12] These could include the Office of the United Nations High Commissioner for Human Rights (OHCHR), the International Labour Organization (ILO) and the Special Rapporteur on the Human Rights of Migrants, as appropriate.

[13] Such as terminology, research and data collection, as well as qualitative analysis.

[14] Such as interception by States of smuggled and trafficked persons and safeguards to ensure access to asylum procedures, information and public awareness activities, as well as training of public officials.

6. Information campaigns to ensure potential migrants are aware of the prospects for legal migration and the dangers of human smuggling and trafficking

- States, working together with IOM and other concerned intergovernmental bodies, such as the Office of the United Nations High Commissioner for Human Rights (OHCHR), the International Labour Organization (ILO), and NGOs, to develop a model information campaign, which would provide relevant information on available channels for legal immigration and warn of the dangers of smuggling and trafficking, and which would present materials in a manner accessible to those it seeks to reach, drawing on models already in place or under development. Material clarifying international protection responsibilities to be included.

7. Return of persons found not to be in need of international protection

- States, working in consultation with relevant intergovernmental organizations, notably IOM, but also UNHCR and, as appropriate, NGOs, to develop strategies, including involving bilateral and regional readmission agreements, to promote return and readmission of persons not in need of international protection, in a humane manner and in full respect for their human rights and dignity, without resort to excessive force and, in the case of children, taking due account of their best interests.
- States, IOM and UNHCR to cooperate, as appropriate, in removing obstacles to the speedy return of asylum-seekers found not to be in need of international protection, predicating their activities on the obligation of States to readmit their own nationals.
- ExCom to consider adopting a Conclusion providing guidance to States on their obligation to accept and facilitate the return of their nationals and related issues.

Goal 3. Sharing of burdens and responsibilities more equitably and building of capacities to receive and protect refugees

The Declaration of States Parties recognizes that respect by States for their international protection responsibilities towards refugees is strengthened through international solidarity and that the refugee protection regime is enhanced through committed international cooperation in a spirit of responsibility and burden-sharing among all States. To achieve effective cooperation on refugee matters, there must be closer dialogue and multilateral "ownership" of refugee problems and their resolution. The Programme of Action is throughout premised on the need for a multilateral approach to ensure that burdens and responsibilities will be shared more equitably. Clearly performance of protection improves with strengthened national capacity, so that investment in capacity-building has to be made a more integral part of the regular operational response to any new emergency involving refugees. NGOs and other members of civil society play a particularly important role directly in protecting and assisting refugees and asylum-seekers, but also in strengthening protection capacities. Incorporating refugee issues within national and regional development agendas can help to reduce the gap between humanitarian assistance and development efforts, making a positive contribution to the longer-term welfare of host communities and making protection-based solutions more sustainable. To achieve a more equitable sharing of burdens and responsibilities and to build capacities to receive and protect refugees and resolve their problems on a durable basis, six objectives, with accompanying activities, have been identified:

1. Better responsibility-sharing arrangements to shoulder the burdens of first asylum countries

- UNHCR to promote better responsibility-sharing in mass influx situations, using and elaborating on, where appropriate, the suggested "tool kit" mechanisms as a starting point, and to work on arrangements which might be put in place to coordinate a comprehensive approach based on burden-sharing.
- UNHCR and States to examine the desirability and feasibility of an ExCom Conclusion setting out framework considerations for responsibility-sharing, which might draw on the outcome of current efforts by the Standing Committee to measure capacity and contributions of developing host countries.
- States to consider the usefulness of specific burden-sharing agreements, negotiated either bilaterally or multilaterally, to contribute to consistency and sustainability in the international response to mass influx and protracted refugee situations.
- States and UNHCR to encourage international financial institutions to consider to what extent the economic and social costs of hosting large numbers of refugees can be factored into the justification for and conditions of financial lending schemes.
- States to explore with intergovernmental organizations and the private sector how to better resource trust funds (e.g. Refugee Education Trust) or scholarship schemes (e.g. Albert Einstein Academic Scholarship Programme for Refugees) which expand secondary, vocational and tertiary education opportunities for refugees, especially adolescents.
- UNHCR, in collaboration with host governments, United Nations specialized agencies, NGOs and other relevant actors, to evaluate the impact of refugees on host country economies, society, environment and security, especially in protracted refugee situations.

2. More effective cooperation to strengthen protection capacities in refugee-receiving countries

- UNHCR and States, in cooperation with NGOs, to develop and implement concrete models to strengthen protection capacities, based on best practice, in refugee-receiving countries and at regional level. These should also aim to reduce the need for asylum-seekers and refugees to move on in an irregular manner by making protection available and generating solutions.
- In this regard, States to target financial and technical assistance in a manner that boosts the capacity of countries of first asylum to meet basic protection needs and to provide essential services, including education, as well as vocational training.
- UNHCR to develop further the capacity-building guiding principles and framework annexed to its note presented at the September 2001 *Global Consultations* meeting.[15] In addition, UNHCR will develop a *Handbook on Strengthening Capacities in Host Countries for the Protection of Refugees*, to provide its staff and partners with a tool to achieve a more consistent approach to strengthening protection capacities. At the same time, UNHCR to maintain an updated catalogue of initiatives and activities in this area, drawing on Annex II of the note.[16]
- Depending on the level of interest, UNHCR to convene regional/sub-regional workshops, involving States and NGOs, with the purpose of devising and implementing specific country or regional strategies.

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15 See *Strengthening Protection Capacities in Host Countries*, EC/GC/01/19.

16 *Ibid.*

- UNHCR to identify where activities to strengthen capacity are most needed, establish priorities among the various activities, and identify host countries requiring support. UNHCR will facilitate the pairing of needs with concrete offers of support and expertise by States, intergovernmental organizations, NGOs, the private sector and other actors.
- States and NGOs to explore expansion of "twinning" projects.[17]
- UNHCR to approach States that made offers of technical and other support during the *Global Consultations* (e.g. for the training of border officials or of those involved in refugee status determination) to confirm their offers of support. These will then be maintained by UNHCR in a register and drawn upon, where appropriate.
- The Working Group on Resettlement to continue to examine the relationship between protection capacity and resettlement.

3. Strengthened partnerships for protection with civil society, including NGOs

- States to examine how to accord NGOs improved legal status though creating a clear legal framework for their operations.
- UNHCR to continue to strengthen partnerships for protection and awareness-raising, not only with host and donor governments (including national and regional legislatures), but also NGOs, other actors of civil society, as well as refugee men, women and children.
- UNHCR and NGOs to intensify their cooperation to identify and address protection problems, especially where the latter have a field presence.

4. Refugee communities empowered to meet their own protection needs

- States, UNHCR and other partners to put in place or mobilize community-based systems and networks, including in particular for the protection of women and children, at the outset of the emergency phase through to the attainment of durable solutions.
- UNHCR to disseminate widely and promote better understanding of its community development strategy[18] and to train staff, government officials and partners in its proper application.
- States, UNHCR and partners to consider ways to enable refugees, including in particular women and adolescents, to use their skills and capacities, in recognition that empowered refugees are better able to contribute to their own and their communities' protection.

5. Refugee issues anchored within national and regional and multilateral development agendas

- States to consider allocating development funds, possibly a percentage thereof, to programmes simultaneously benefiting refugees and the local population in host countries.
- States to consider including refugee-hosting areas in their national development plans, and UNHCR to encourage multilateral and bilateral development partners to extend tangible support for such initiatives and to submit periodic reports on its activities.

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[17] These are projects whereby civil servants from national administrations make themselves available to assist other States with less developed protection structures to build up expertise in the different areas.

[18] See *Reinforcing a Community Development Approach, EC/51/SC/CRP.6* (15 February 2001).

- UNHCR and States to explore new funding strategies with the private sector.

6. Resettlement used more effectively as a tool of burden sharing[19]

- States to examine how more flexible resettlement criteria could be applied with regard to refugees recognized on a *prima facie* basis in mass displacement situations to whom Article 1 F does not apply, coupled with, as appropriate, temporary humanitarian evacuation programmes.
- The Working Group on Resettlement to examine further the potential use of resettlement as a burden-sharing tool, which would include the issue of criteria to be applied in mass displacement situations, especially where the prospect of other durable solutions is remote or absent.
- States and UNHCR to examine ways in which resettlement capacities can be enhanced, e.g. through increased partnerships with NGOs and other relevant partners.

Goal 4. Addressing security-related concerns more effectively

Security problems confronting refugees can take many forms. The breakdown in social and cultural structures and norms, the separation from and loss of family members and community support, and impunity for perpetrators of crimes and violence make refugees, particularly women and children, especially vulnerable. Refugee women and girls are often subject to specific forms of abuse, such as rape, abduction, trafficking, or demands for sexual favours in exchange for offers of protection, documents or assistance. Refugee children, especially girls, are at even greater risk of sexual exploitation, violence and abuse. Refugee children, including adolescents, are often also prone to forcible recruitment by armed groups and national armed forces where refugee camps are located in close proximity to zones of armed conflict. The presence of armed elements in an influx of refugees, or in camps or refugee-populated areas, can exacerbate all of the above problems and, moreover, generate serious security concerns for refugees, receiving States and host communities. Drawing a distinction between refugees, on the one hand, and armed elements, on the other, while a major challenge, is clearly in the interest of States and of refugees. States may require technical support and dedicated resources to ensure security of refugees, refugee camps and refugee-hosting areas and, more generally, to preserve the civilian character of asylum. Progress in addressing security-related concerns will first of all hinge on the commitment of the country of asylum, but may also require the active involvement of the Security Council, where these concerns are being discussed, the Department of Peacekeeping Operations (DPKO) and organizations with specific competence in situations of armed conflict, such as the International Committee of the Red Cross (ICRC). To address security-related concerns more effectively, four objectives, together with accompanying activities, have been identified.

1. The resourcing of States for securing the safety of refugees and for the separation of armed elements from refugee populations

- ExCom to give policy directions through adoption of a Conclusion that would set out guiding considerations for the preservation of the civilian character of asylum.
- UNHCR to develop practical tools, including operational guidelines that include procedures and standards (in consultation with States, relevant

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[19] Refer also to Goal 5.

United Nations entities and other interested agencies, such as the ICRC) and to work with these partners in their pilot application in certain specifically identified refugee situations.

- UNHCR to develop its own institutional capacity, through an enhanced refugee security project, to assist States in ensuring the physical safety of refugees.
- States to work in good faith, drawing on ExCom guidance, in giving priority to preserving the civilian character of asylum, including by making genuine efforts to separate combatants from refugee populations, and to ensure the physical security of refugees.
- To establish a viable operational framework for ensuring refugee security, States to explore practical arrangements for cooperation on security issues with UNHCR, the Department of Peacekeeping Operations (DPKO) and other segments of the United Nations.
- States and UNHCR to explore how to provide material support to UNHCR to establish standby mechanisms for the deployment of human security officers in refugee situations, including emergencies in which insecurity is a serious problem.
- UNHCR to identify partnership opportunities between host governments, donors and UNHCR to strengthen national capacity to manage refugee-related security issues.

2. Keeping the Secretary-General and the Security Council seized with the issue

- The United Nations Secretary-General and the Security Council to be kept advised and thereby actively seized with serious security problems in refugee areas. UNHCR will continue to keep both regularly informed.

3. Prevention of military recruitment of refugees, including refugee children

- States to take concrete measures to reduce the risk of and, to the extent possible, prevent the forcible recruitment of refugees, in particular refugee children, including by ensuring access to education and vocational training.
- States that have not yet ratified the *Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict* to consider doing so, with a view to early accession.
- States, UNHCR and other humanitarian partners to raise awareness of and conduct training on the prevention of military recruitment among refugee populations.
- States, the United Nations Children's Fund (UNICEF) and other actors, including UNHCR, where appropriate, to set up special programmes to disarm, demobilize and reintegrate child soldiers who are among refugee populations, equally benefiting and addressing the particular situation of male and female child soldiers.

4. Prevention of age-based and sexual and gender-based violence

- UNHCR to work with States and humanitarian partners to ensure the full implementation of its *Guidelines on the Protection of Refugee Women* (Geneva, 1991), and on *Sexual Violence against Refugee Women: Guidelines on the Prevention and Response* (Geneva, 1995 - under revision), as well as the High Commissioner's *Commitments to Refugee Women* (12 December 2001) and the *Policy on Protection from Sexual Exploitation*, which is being developed by the Inter-Agency Standing Committee (IASC) Task Force on Protection from Sexual Exploitation.

- States, UNHCR and other relevant actors to adopt measures to ensure that gender and age-sensitive prevention and response mechanisms, including remedial actions, to sexual and gender-based violence and exploitation, including a complaints mechanism and an appropriate staff accountability framework, are an integral part of all programmes in all refugee contexts, and include relevant educational and awareness-building programmes targeting men, women and children.[20]
- UNHCR and its partners to set in place a clear accountability structure for the protection of refugee women and refugee children from age-based and sexual and gender-based violence and ensure that applicable codes of conduct are respected in all humanitarian operations.
- States to provide appropriate legal and rehabilitative remedies and to follow-up on the Yokohama Global Commitment.[21]
- States, UNHCR and other humanitarian partners to conduct training and capacity-building on the rights and needs of survivors of sexual exploitation, violence and abuse.

Goal 5. Redoubling the search for durable solutions

Millions of refugees around the world presently have no access to timely and durable solutions, the securing of which is one of the principal goals of international protection. There is a need for more coherence by integrating voluntary repatriation, local integration and resettlement, whenever feasible, into one comprehensive approach, implemented in close cooperation among countries of origin, host States, UNHCR and its humanitarian and development partners, especially NGOs, as well as refugees. As an interim response, the promotion of self-reliance of refugees is an important means to avoid dependency, take advantage of the initiative and potential contributions of refugees, and prepare them for durable solutions. The success of the search for durable solutions depends in large measure on resolute and sustained international cooperation and support. Concerted action is called for, in particular, to resolve protracted refugee situations through a well-balanced package of support for the different durable solutions envisaged. In this context, the Programme of Action recognizes that voluntary repatriation in conditions of safety and dignity remains the preferred solution for refugees. Resettlement, too, will have to find its place both as a vital tool for protection and also as an instrument of international solidarity and burden-sharing. Local integration, as well, has proven instrumental in resolving the plight of particular refugees or groups of refugees. To redouble the search for durable solutions, eight objectives and accompanying actions have been identified:

1. Realization of comprehensive durable solutions strategies, especially for protracted refugee situations

- UNHCR to undertake a review of all protracted refugee situations, with a view to exploring with States and other partners the feasibility of comprehensive plans of action, bringing into play each of the available durable solutions, to be implemented in close consultation with countries of origin, host countries, resettlement countries, and refugees themselves.

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[20] Using the Framework of Action to Address the Problem of Child Abuse in West Africa as an important inventory of measures, which may also be relevant in other situations, particularly for the protection of refugee children.

[21] Second World Congress against Commercial Sexual Exploitation, held in Yokohama (Japan), 17-20 December 2001.

- The Working Group on Resettlement to explore how strengthening capacity in host countries affects the pursuit of one or other available durable solution(s), as well as a more strategic use of resettlement, including within regions affected by refugee movements.

2. Improved conditions for voluntary repatriation

- Countries of origin, working in cooperation with UNHCR and relevant partners, including OHCHR, to commit themselves to respecting the right to return and receiving back their refugees within an acceptable framework of physical, legal and material safety, achievable, for example, through amnesties, human rights guarantees, and measures to enable the restitution of property, all of which should be appropriately communicated to refugees.
- In this regard also, countries of origin to explore more actively initiatives in the socio-economic, cultural and political spheres, to foster reconciliation and dialogue, particularly with refugee communities, and to ensure respect for the rule of law.
- States to put in place more coherent and comprehensive support to countries of origin, to assist them to discharge their responsibility to ensure the legal, physical and material security of refugees.
- States to facilitate the participation of refugees, including women, in peace and reconciliation processes and to ensure that such agreements duly recognize the right to return and contemplate measures to encourage repatriation, reintegration and reconciliation.
- Countries of origin and asylum, working in cooperation with UNHCR, to promote voluntary repatriation *inter alia* through the conclusion of tripartite agreements and measures facilitating decisions on return, such as "go-and-see visits", information sessions involving exchanges between refugees and home-country officials, and similar confidence-building measures, as well as, resources permitting, enhanced UNHCR field presence to allow continuous monitoring and to contribute to the creation of normal and peaceful conditions to facilitate repatriation.
- ExCom to adopt a Conclusion addressing legal safety issues, including property concerns, as a complement to Conclusion No. 40 (XXXVI) on voluntary repatriation.
- States and UNHCR to ensure that gender and age-related issues particular to a repatriation or reintegration programme are identified at an early stage and are fully taken into account in the planning and implementation of voluntary repatriation programmes.
- States and UNHCR to ensure that both women and men are given an opportunity to make a free and fully informed decision regarding return and to sign individually the Voluntary Repatriation Form, fully respecting the need for confidentiality.

3. Strengthened cooperation to make repatriation sustainable

- UNHCR to update its 1996 *Handbook on Voluntary Repatriation*, with a sharpened focus on measures to strengthen cooperation among all concerned actors and build confidence.
- UNHCR and other relevant partners to assist the process of reconciliation by ensuring that planning and programming for repatriation include measures to encourage reconciliation, through promoting equity between returnees, displaced persons and local residents in access to essential services and participation in public life.
- States and UNHCR to ensure that planning for repatriation includes the early involvement of development partners, as a means to contribute to the

sustainability of repatriation and to facilitate UNHCR's timely hand-over and exit.

- States, UNHCR and development partners to adopt, as appropriate and in a spirit of partnership, a community-based focus regarding investment in reintegration, which benefits returnees as well as the local population, and which accords sufficient priority to housing and essential services, to increase absorption capacity and contribute to reconciliation.
- States to take measures to ensure equal rights for returnee women in access to housing, property and land restitution.
- States, UNHCR and other partners to give priority to ensuring that education possibilities are available to returnees in the country of origin, and that access is facilitated through arrangements which certify education, vocational or other training received while in exile.

4. Local integration having its proper place as part of a comprehensive strategy for durable solutions

- ExCom to set out framework considerations for implementing the solution of local integration, in the form of a Conclusion sensitive to the specificities of refugee needs, international and national legal standards, as well as the socio-economic realities of hosting countries. In this regard, a gender and age-sensitive community-development approach to local integration to be promoted, taking into account, as possible and appropriate, needs of both the refugees and the local population.
- States to examine where, when and how to promote the grant of a secure legal status and residence rights, which could include the opportunity to become naturalized citizens of the country of asylum, for refugees who have already attained a considerable degree of socio-economic integration.
- States, working in partnership with international and regional development actors, to contribute to the realization of local integration through burden-sharing, which ensures that the necessary resources are available to underpin self-reliance and local integration, in a manner that sustains the viability of local communities affected by their presence.

5. Expansion of resettlement opportunities

- UNHCR to work to enhance protection through an expansion of the number of countries engaged in resettlement, as well as through more strategic use of resettlement for the benefit of as many refugees as possible, taking, however, into account the resource implications thereof.
- States that do not yet offer resettlement opportunities to give active consideration to making some resettlement places available.
- States and UNHCR, in cooperation with NGOs, to develop capacity-building programmes with new resettlement countries, involving training, as well as "twinning" and related support.
- States that offer resettlement opportunities to consider increasing their resettlement quotas, diversifying their intake of refugee groups, and introducing more flexible resettlement criteria.[22]
- States to put in place policies to ensure that resettlement runs in tandem with a more vigorous integration policy, aimed at enabling refugees having durable residence status to enjoy equality of rights and opportunities in the social, economic and cultural life of the country, especially as regards: education, including language training and skills development; the labour market; family reunification; and citizenship.

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[22] See also Goal 3, objective 6.

6. More efficient use of resettlement both as a protection tool and as a durable solution

- States and UNHCR, working in cooperation with NGOs, to streamline requirements for the processing of applications for resettlement, with a stronger focus on protection needs.
- States and UNHCR to explore the feasibility of establishing a central biometric registration system to support the identification of refugees in need of resettlement.
- States and UNHCR to examine how to carry out earlier analysis of data deriving from refugee registration, to anticipate the needs for resettlement of individuals or specific groups and to process more rapidly the resettlement applications, particularly in emergency situations.
- States and UNHCR to give increased attention to gender-related protection needs in their resettlement programmes, in addition to the women-at-risk category.
- UNHCR to improve methods and mechanisms to minimize the potential for malfeasance and address corruption and fraud, and to keep ExCom informed of this effort.
- States and UNHCR to ensure the availability of increased resources for resettlement activities, integrated in a balanced way in each geographic operation.

7. Achievement of self-reliance for refugees

- UNHCR and States to ensure that, from the outset, assistance programmes for refugees integrate strategies for self-reliance and empowerment. In this regard, UNHCR to act as a catalyst in mobilizing financial and technical support for such measures.
- In this regard also, UNHCR and States to look at relief-substitution strategies[23], tapping in particular the resourcefulness and potential of refugee women, in an effort also to avoid the serious protection problems, including sexual and gender-based violence, which can result from over-dependency and idleness.
- States to consider expanding possibilities for education, vocational training, and agricultural and other income-generating programmes, benefiting men and women equitably.
- States, UNHCR and humanitarian partners to ensure that refugees, particularly refugee women and adolescents, and host communities themselves, participate in the design and development of self-reliance programmes.
- States, UNHCR and humanitarian and development partners to work with host countries on further developing integrated approaches that can strengthen the absorption capacity of refugee-hosting areas.
- UNHCR to initiate a study of economic and social conditions for refugees in host States, with emphasis on national employment legislation, as well as an inventory of best practices for self-reliance strategies, to provide States with practical operational tools to turn principles into concrete measures.

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[23] Efforts involving both refugees and local communities in producing certain items (e.g. cooking oil, flour, blankets, stoves).

8. Rehabilitation of refugee-impacted areas in former host countries

- States, UNHCR and development partners to assess how they can best promote and positively contribute to efforts of the international community to provide for the rehabilitation of refugee-impacted areas in former countries of asylum.

Goal 6: Meeting the protection needs of refugee women and refugee children

Refugee women and refugee children account for the vast majority of the world's refugees and beneficiaries of UNHCR programmes. The international community and UNHCR have developed a wealth of international norms, policies and guidelines to improve the protection and care of refugee women and refugee children. In practice, there is still a gap in the application and implementation of these, owing to resource constraints (both financial and human), uneven priorities and accountability at the level of institutions, but also within the international community. The protection of refugee women and children is both a core activity and an organizational priority for UNHCR. To protect refugee women and children, a three-pronged approach is called for, which proceeds within a rights-based framework, which contains targeted actions, and which is solidly premised on mainstreaming both gender equality and age-sensitivity.[24] The main protection concerns facing refugee women and refugee children are inter-related, cannot be treated in isolation from each other, and require strong partnership amongst all concerned partners. Specific activities to address protection needs of refugee women and refugee children are reflected under other goals and objectives of the Programme of Action. Two additional framework objectives, with some accompanying activities, are set out below:

1. Measures to improve the framework for the protection of refugee women

- States, UNHCR and partners to set in place measures to ensure that refugee women participate equitably in decision-making in all areas of refugee life, as well as in the implementation of such decisions, and that protection- and gender-sensitive approaches are applied at every stage of programme development, implementation, monitoring and evaluation.
- States to consider acceding to the *Convention on the Elimination of all Forms of Discrimination against Women* (CEDAW) and its *Optional Protocol*.
- UNHCR to review the recommendations contained in the Women's Commission for Refugee Women and Children's assessment of UNHCR's Guidelines on the Protection of Refugee Women[25] and to ensure timely and appropriate follow-up, with timeframes, as appropriate.
- UNHCR to finalize revision of the *1991 Guidelines on the Protection of Refugee Women*, taking into account relevant findings of the Women's Commission for Refugee Women and Children's Assessment of implementation of the guidelines.

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[24] Recommendations for action on behalf of refugee women and children have been drawn from recent independent evaluations of UNHCR's activities for refugee women and children, Global Consultations and other meetings, international human rights law, Executive Committee Conclusions, guidelines and policies. See *An independent evaluation of the impact of UNHCR's activities in meeting the rights and protection needs of refugee children*, EPAU/2002/02 (May 2002) and *UNHCR Policy on Refugee Women and Guidelines on Their Protection: An Assessment of Ten Years of Implementation* (May 2002).

[25] *UNHCR Policy on Refugee Women and Guidelines on Their Protection: An Assessment of Ten Years of Implementation* (May 2002)

- UNHCR to ensure continuous dissemination and to monitor implementation of the *Guidelines on Gender-Related Persecution*, *Guidelines on the Protection of Refugee Women*, and *Sexual Violence against Refugee Women: Guidelines on Prevention and Response*.
- UNHCR to ensure that Country Operation Plans (COPs) and Annual Protection Reports fully address critical women's rights issues, including detailed reporting on activities carried out and results achieved, and incorporate, where appropriate, plans of action for protection, developed with partners and refugees themselves.
- States, UNHCR and other actors to ensure that a gender-equality perspective is mainstreamed into all training and learning programmes.

2. Measures to improve the framework for the protection of refugee children

- States, UNHCR and partners to set in place measures to ensure that, as appropriate, refugee children and adolescents participate equitably in decision-making in all areas of refugee life, as well as in the implementation of such decisions, and that protection and age-sensitive approaches are applied at every stage of programme development, implementation, monitoring and evaluation.
- States that have not yet ratified the *Convention on the Rights of the Child* and its *Optional Protocols on the Involvement of Children in Armed Conflict* and *on the Sale of Children, Child Prostitution and Child Pornography*, and the *1993 Hague Convention on Protection of Children and Cooperation in Respect of Inter-Country Adoption* to consider doing so, and States Parties to these instruments to implement them in good faith.
- States, UNHCR and humanitarian partners to continue, or establish, programmes to inform refugee children of their rights and encourage their participation in identifying protection problems, actions to alleviate them and decisions affecting them.
- States, UNHCR and humanitarian partners to continue, or set in place, training programmes on the rights of refugee children, drawing as appropriate on the *Convention on the Rights of the Child*, other relevant standards of human rights and international humanitarian law and UNHCR's guidelines on the protection and care of refugee children.
- UNHCR to ensure continuous dissemination and to oversee implementation of the guidelines on the protection and care of refugee children.
- UNHCR to establish a monitoring process to measure implementation of the above *Guidelines* as well as follow-up on the recommendations made in the independent evaluation *Meeting the Rights and Protection Needs of Refugee Children* (May 2002).
- UNHCR to ensure that Country Operation Plans (COPs) and Annual Protection Reports fully address critical children's rights issues, including detailed reporting on activities carried out and results achieved, and incorporate, where appropriate, plans of action for protection developed with partners and refugee children themselves.
- UNHCR to enhance its partnership with UNICEF and Save the Children, to improve training and capacity-building within the framework of the *Action on the Rights of Children* (ARC) project, and to give priority to training government and partner counterparts, as well as their own staff.
- States to accord importance to primary and secondary education for refugees, including by providing funding to host States and UNHCR, in recognition that education is an important tool of protection.

Annex

LIST OF DOCUMENTS[26]

A. Third Track Meeting on the theme: "Protection of Refugees in Mass Influx Situations", 8-9 March 2001

- *Protection of Refugees in Mass Influx Situations: Overall Protection Framework*, EC/GC/01/4, 19 February 2001
- *The Civilian Character of Asylum: Separating Armed Elements from Refugees*, EC/GC/01/5, 19 February 2001
- *Practical Aspects of Physical and Legal Protection with Regard to Registration*, EC/GC/01/6, 19 February 2001
- *Mechanisms of International Cooperation to Share Responsibilities and Burdens in Mass Influx Situations*, EC/GC/01/7, 19 February 2001
- *Global Consultations - Protection of Refugees in Mass Influx (8-9 March 2001): Chairman's Summary*
- *Global Consultations on International Protection: Report of the First Meeting in the Third Track*, EG/GC/01/8/Rev.1, 28 June 2001
- *Global Consultations - Follow-up to the First Meeting of the Third Track: Refugees in Mass Influx Situations* (See Annex II of the *Update on Global Consultations on International Protection*, EC/51/SC/CRP.12, 30 May 2001)

B. Third Track Meeting on the theme: "Protection of Refugees in the Context of Individual Asylum Systems", 28-29 June 2001

- *Refugee Protection and Migration Control: Perspectives from UNHCR and IOM*, EC/GC/01/11, 31 May 2001
- *Asylum Processes (Fair and Efficient Asylum Procedures)*, EC/GC/01/12, 31 May 2001
- *Access to Procedures, "Safe Third Countries", "Safe Countries of Origin" and "Time Limits"*, Joanne van Selm, June 2001
- *Global Consultations - Protection of Refugees in the Context of Individual Asylum Systems (28-29 June 2001): Chairman's Summary*
- *Global Consultations on International Protection: Report of the Second Meeting in the Third Track (28-29 June 2001)*, EC/GC/01/15/Rev.1, 27 September 2001
- *Global Consultations on International Protection - Follow-up to the Second Meeting of the Third Track: Protection of Refugees in the Context of Individual Asylum Systems*, EC/GC/01/20, 18 September 2001

C. Third Track Meeting on the theme: "Protection of Refugees in the Context of Individual Asylum Systems", 27-28 September 2001

- *Reception of Asylum-Seekers, including Standards of Treatment, in the Context of Individual Asylum Systems*, EC/GC/01/17, 4 September 2001
- *Complementary Forms of Protection*, EC/GC/01/18, 4 September 2001
- *Strengthening Protection Capacities in Host Countries*, EC/GC/01/19, 4 September 2001

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[26] All of the documents cited are available on the Global Consultations page of UNHCR's website at www.unhcr.ch.

Annex

- *Global Consultations - Protection of Refugees in the Context of Individual Asylum Systems (27-28 September 2001): Chairman's Summary*
- *Global Consultations on International Protection: Report of the Third Meeting in the Third Track (27-28 September 2001)*, EC/GC/02/2, 16 April 2002
- *Global Consultations - Follow-up to the Third Meeting of the Third Track: Protection of Refugees in the Context of Individual Asylum Systems*, EC/GC/02/3, 16 April 2002

D. Third Track Meeting on the themes: "The Search for Protection-based Solutions" and "Protection of Refugee Women and Refugee Children", 22-24 May 2002

- *Voluntary Repatriation*, EC/GC/02/5, 25 April 2002
- *Local Integration*, EC/GC/02/6, 25 April 2002
- *Strengthening and Expanding Resettlement Today: Dilemmas, Challenges and Opportunities*, EC/GC/02/7, 25 April 2002
- *Refugee Women*, EC/GC/02/8, 25 April 2002
- *Refugee Children*, EC/GC/02/9, 25 April 2002
- *Global Consultations on International Protection: Report of the Fourth Meeting of the Third Track* EC/GC/02/10, 14 June 2002
- *Global Consultations-The Search for Protection-Based Solutions and Protection of Refugee Women and Refugee Children (22-24 May 2002): Chairman's Summary*

E. Regional Meetings

- *UNHCR Regional Symposium on Maintaining the Civilian and Humanitarian Character of Asylum, Refugee Status, Camps and Other Locations*, EC/GC/01/9, 30 May 2001 (Pretoria, South Africa)
- *Regional Workshops in Ottawa, Ontario and in Macau, Incorporating Refugee Protection Safeguards into Interception Measures*, EC/GC/01/13, 31 May 2001 (Ottawa, Ontario, Canada; and Macau SAR, China)
- *Global Consultations on International Protection: Budapest Regional Meeting*, EC/GC/01/14, 15 June 2001 (English only)
- *Global Consultations on International Protection: San José Regional Experts Meeting*, 7-8 June 2001
- *Strengthening the Capacity of Countries of First Asylum in the Region to offer Adequate Protection: Regional Meeting in Cairo*, EC/GC/01/21, 20 September 2001
- *Nordic Resettlement Meeting: Resettlement as a Multi-faceted Protection Tool and its Relationship to Migration*, Oslo, EC/GC/02/4, 16 April 2002

F. Additional Events in Support of the Global Consultations Process

- *EU Seminar on Children Affected by Armed Conflict and Forced Displacement - A Child Rights Perspective in Development Co-operation and Migration Policies: Conclusions by the Swedish EU Presidency*, Norrköpping, 1-2 March 2001
- *Improving the Security of Refugee and Displaced Women: Recommendations for Policy and Practice from International Expert Seminar* issued by the Norwegian Institute of International Affairs, Oslo, 24-25 January 2002 [The seminar was initiated and funded by the Norwegian Ministry of Foreign Affairs and organised by the Norwegian Institute of International Affairs,

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- in co-operation with the International Peace Research Institute and the Norwegian Refugee Council.]

G. Second Track - Lisbon Expert Roundtable, 3-4 May 2001

- *Current Issues in Cessation of Protection under Article 1C of the 1951 Convention and Article I.4 of the 1969 OAU Convention*, Joan Fitzpatrick, Jeffrey and Susan Brotman, 2001
- *Current Issues in the Application of the Exclusion Clauses*, Geoff Gilbert, 2001
- *When is Protection No Longer Necessary? - The "Ceased Circumstances" Provisions of the Cessation Clauses: Principles and UNHCR Practice, 1973-1999*, Rafael Bonoan, 24 April 2001
- *Lisbon Expert Roundtable, 3-4 May 2001, Summary Conclusions - Cessation of Refugee Status*
- *Lisbon Expert Roundtable, 3-4 May 2001, Summary Conclusions - Exclusion from Refugee Status*. EC/GC/01/2Track/1 (English only)

H. Second Track - Cambridge Expert Roundtable, 9-10 July 2001

- *Supervising the 1951 Convention on the Status of Refugees: Article 35 and Beyond*, Walter Kälin, 2001
- *The Scope and the Content of the Principle on Non-Refoulement*, Opinion, Sir Elihu Lauterpacht CBE QC, Daniel Bethlehem, 20 June 2001
- *Cambridge Expert Roundtable, 9-10 July 2001, Summary Conclusions - Supervisory Responsibility*
- *Cambridge Expert Roundtable, 9-10 July 2001, Summary Conclusions - The Principle of Non-Refoulement*

I. Second Track - San Remo Expert Roundtable, 6-8 September 2001

- *Gender-Related Persecution*, Roger Haynes, 10 August 2001
- *Internal Protection/Relocation/Flight Alternative as an Aspect of Refugee Status Determination*, James C. Hathaway, Michelle Foster, 2001
- *Membership in a Particular Social Group: Analysis and Proposed Conclusions*, T. Alexander Aleinikoff, 2001
- *San Remo Expert Roundtable, 6-8 September 2001, Summary Conclusions - Internal Protection/Relocation/Flight Alternative*
- *San Remo Expert Roundtable, 6-8 September 2001, Summary Conclusions - Gender-related Persecution*
- *San Remo Expert Roundtable, 6-8 September 2001, Summary Conclusions - Membership of a Particular Social Group*

J. Second Track - Geneva Expert Roundtable, 8-9 November 2001

- *Family Unity and Refugee Protection*, Kate Jastram, Kathleen Newland, 2001
- *Article 31 of the 1951 Convention relating to the Status of Refugees: Non-Penalization, Detention and Prosecution*, Guy S. Goodwin Gill, October 2001
- *Geneva Expert Roundtable, 8-9 November 2001, Summary Conclusions on Family Unity*
- *Geneva Expert Roundtable, 8-9 November 2001, Summary Conclusions on Article 31 of the 1951 Convention relating to the Status of Refugees - Revised*

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K. First Track - Ministerial Meeting of States Parties, Geneva, 12-13 December 2001

- *Report of the Preparatory Session of the Ministerial Meeting of States Parties*, HCR/MMSP/2001/03 and HCR/MMSP/2001/03/Corr.1
- *Background Notes for the Roundtables of the Ministerial Meeting*, HCR/MMSP/2001/04
- *Declaration of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, HCR/MMSP/2001/9
- *Report of the Ministerial Meeting of States Parties to the 1951 Convention and/or its 1967 Protocol relating to the Status of Refugees*, HCR/MMSP/2001/10

L. Endorsements of the Process

- Inter-Parliamentary Union Council Resolution on the 50th Anniversary of the adoption of the 1951 Convention, Havana, 7 April 2001
- Organization of American States Resolution on the Protection of Refugees, Returnees and Internally Displaced Persons in the Americas, San Jose, 5 June 2001, OEA/Ser. P, AG/RES. 1832 (XXXI-O/01)
- Council of Europe Recommendation on the United Nations High Commissioner for Refugees and the 50th Anniversary of the Geneva Convention, Strasbourg, 27 June 2001, Rec. 1525 (2001)
- Organization of African Unity Decision on the 50th Anniversary of the Adoption of the 1951 Convention, Lusaka, 11 July 2001
- European Union Declaration on the 50th Anniversary of the 1951 Convention relating to the Status of Refugees, Brussels, 28 July 2001
- Paris Appeal by Refugees at the French National Assembly, Paris, 16 June 2001

M. Consultations with Refugees

- International Conference on the Reception and Integration of Resettled Refugees (ICRIRR), Norrköpping, 25-27 April 2001
- Refugee Parliament, French National Assembly, Paris, 16 June 2001
- Dialogue with Refugee Women, Geneva, 20-22 June 2001
- The Refugee Perspective, Rouen, 14-16 September 2001

N. General

- *Refugee Protection - A Guide to International Refugee Law*, Handbook for Parliamentarians No. 2, 2001, Office of the United Nations High Commissioner for Refugees and the Inter-Parliamentary Union
- *Global Consultations - "Third Track" Issues: List of Selected Reference Material*, EC/GC/01/2, 12 February 2001
- *Work Programme for "Third Track" Issues in the Context of the Executive Committee Framework*, EC/GC/01/1/Rev.2, 9 May 2001

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HIGH COMMISSIONER'S PROGRAMME

Fifty-third session

REPORT ON OVERSIGHT ACTIVITIES

This report contains three separate sections as follows:

- Evaluation and policy analysis (Section I);
- Inspection and investigation activities (Section II);
- General audit (Section III).

Section I and II are based on reports presented to the Standing Committee at its twenty-third meeting (EC/52/SC/CRP.7 and CRP.12, respectively).

Section III (General audit) is a new addition, and concerns activities undertaken within the framework of UNHCR's internal audit.

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SECTION I

EVALUATION AND POLICY ANALYSIS: UNHCR'S PLAN AND ACTIVITIES

1. Information contained in this section comprises three distinct parts. The first describes the range of recent measures that have been taken to enhance the capacity, effectiveness and impact of UNHCR's evaluation function. The second provides an account of the organization's efforts to consolidate and build upon those initiatives through the introduction of a formal evaluation policy statement. The final part identifies the principal evaluation projects that UNHCR has undertaken or initiated over the past year, as well as the steps being taken to employ the findings and recommendations of those evaluations for the purposes of policymaking, planning and programming.

A. RECENT DEVELOPMENTS IN THE EVALUATION FUNCTION

2. Since the end of the 1990s, UNHCR has made a concerted effort to revitalize and reinforce its evaluation function, with the intention of enhancing its capacity for organizational learning and performance review, as well as its accountability to refugees and other key stakeholders. A wide range of measures have been taken in pursuit of these objectives, including (but not limited to) the following:

(a) the establishment and progressive strengthening of the Evaluation and Policy Analysis Unit (EPAU), which reports directly to the Assistant High Commissioner for Refugees and which has overall responsibility for the management and development of the evaluation function in UNHCR;

(b) the introduction of an evaluation mission statement, committing UNHCR to the highest possible degree of transparency and consultation in the conduct of its evaluation activities, including the placement of all evaluation findings and recommendations in the public domain;

(c) the implementation of a plan of action for the development and devolution of the evaluation function, with the intention of providing UNHCR's functional units, regional bureaux and field offices with the tools and resources needed to play a more active role in the analysis and assessment of the organization's work;

(d) the establishment of a flexible and rolling evaluation work programme, focusing on those policy issues, programmes, projects and practices which are of most direct concern to UNHCR's management and key stakeholders;

(e) the establishment of Steering Committees, consisting of key stakeholders within and outside UNHCR, to guide and supervise the progress of each major evaluation project, and to ensure the effective utilization of evaluation findings and recommendations;

(f) the extensive use of external evaluation consultants, and the selection of such consultants by means of open and competitive bidding procedures, so as to maximize the independence and quality of UNHCR's evaluation activities;

(g) the introduction of lessons-learned exercises at the completion of major evaluation projects, undertaken with the purpose of reviewing and improving the evaluation procedures, methods and management controls employed by UNHCR.

(h) the employment of innovative and interactive evaluation methods, including 'real-time' evaluations of UNHCR's emergency operations; 'beneficiary-based' evaluations of long-term programmes; facilitated self-evaluation workshops at field level; as well as joint and inter-agency evaluation projects, conducted in association with other humanitarian actors;

(i) the active involvement of EPAU staff members in UNHCR's strategic planning, policymaking and partnership functions, enabling the organization to make more immediate and effective use of the findings and recommendations which emanate from evaluation projects; and,

(j) the expansion of the evaluation function to include analytical and research-based activities which are intended to provide UNHCR and its partners with a better understanding of the political, institutional, operational and policy environments in which they are obliged to work.

B. UNHCR'S EVALUATION POLICY

3. In order to consolidate and build upon the developments described above, UNHCR will shortly introduce a formal evaluation policy statement. Based upon an independent review of EPAU's work, as well as a year-long process of internal discussion and stakeholder consultation, it is hoped that the policy statement will be issued by the time of the June 2002 meeting of the Standing Committee. As with all other documents prepared by EPAU, the policy statement will be available in hard copy to all interested parties and will be freely accessible on the Evaluation and Policy Analysis page of the UNHCR website, <www.unhcr.ch>.

4. The forthcoming evaluation policy statement addresses four principal issues. First, it describes the *role of evaluation in UNHCR*, stressing the need for evaluation activities to be effectively coordinated with other components of the organization's performance review and learning frameworks. The policy statement identifies the primary purposes for which evaluation is used in UNHCR, and elaborates upon the key principles on which all of the organization's evaluation activities will be based: transparency, independence, consultation, relevance and integrity.

5. A second function of the evaluation policy statement is to specify *UNHCR's commitment to evaluation*, in terms of the level, types, resourcing and quality of evaluation activity undertaken by the organization. In brief, the policy envisages a phased expansion of the evaluation function, with specific obligations being placed upon EPAU, UNHCR's regional bureaux and its larger field offices.

6. Third, the evaluation policy statement provides a procedural and managerial framework for the *conduct of evaluation in UNHCR*. In this respect, the document addresses issues such as the content of the terms of reference to be established for each evaluation project; the composition and required competence of evaluation teams engaged by UNHCR; the nature of the competitive bidding procedures used to award evaluation contracts; the role

of evaluation Steering Committees; as well as the consultative, quality control, management response and dissemination mechanisms that will be built into the design of all evaluation projects. This part of the policy statement also commits UNHCR to a 'utilization focused' approach to evaluation, whereby the intended use of findings and recommendations is taken into full account during the planning and design of each evaluation project.

7. A fourth and final purpose of the policy statement is to define the role, responsibilities and working methods of the Evaluation and Policy Analysis Unit. The document sets out the procedure to be used for the selection and approval of new evaluation projects. It also envisages the establishment of a new Evaluation Advisory Group. Consisting of representatives from the Executive Committee, the UN system, the NGO and research communities, the Advisory Group will advise EPAU on the development and effective utilization of UNHCR's evaluation activities.

8. Finally, the document requests Executive Committee members and observers to coordinate their own evaluation activities with EPAU and encourages them to conduct those activities in accordance with the evaluation principles and standards set out in the UNHCR policy statement.

C. EVALUATION PROJECTS AND ACTIVITIES

9. During the period under review, UNHCR's evaluation function has focused on a number of global operational and policy issues which are of particular concern to the organization and its partners. The following paragraphs identify those issues and provide a brief description of the evaluation projects and activities that have been undertaken or initiated with respect to each of those themes. The planned evaluation projects identified in this section are subject to further review. Updated details of UNHCR's evaluation and policy analysis work programme can be formed on the Evaluation and Policy Analysis page of the UNHCR website.

Refugee Children

10. The impact of UNHCR's activities in meeting the *rights and protection needs of refugee children* has been the subject of a major independent evaluation over the past 18 months. Undertaken by an eight-person team of international experts, who visited nine different field operations, the report of this evaluation project was published in May 2002, prior to relevant discussions at the UN Special Session on Children in New York and the Global Consultations on International Protection in Geneva.

11. The Assistant High Commissioner for Refugees, in association with the Division of Operational Support (DOS), Department of International Protection (DIP) and the project's Steering Committee, will assume responsibility for drawing up a global plan of action, based on the evaluation's findings and recommendations. That plan of action will also be coordinated with UNHCR's current efforts to address and prevent the sexual exploitation of refugee girls, a problem which has recently come to the fore in the West Africa region.

12. With regard to the needs of younger refugees, the period under review also witnessed the publication of a book by EPAU and DOS, titled 'Learning for a Future: Refugee Education in Developing Countries'. Focusing on issues

such as emergency education, peace education, the quality of refugee education and vocational training, the volume presents the findings and recommendations of an evaluation and research project sponsored by an Executive Committee member.

13. A principal finding of the independent evaluation on refugee children is UNHCR's limited capacity in the realm of *community services and social protection*. These issues will be addressed more systematically in a recently initiated global review of the organization's community services function. It is hoped that the initial findings of this review, which will be supported by more specific community services evaluation projects in India, Tanzania and Zambia, will be presented to the October 2002 meeting of the Executive Committee.

Durable solutions for refugees

14. In recent months, the High Commissioner has given renewed consideration to UNHCR's role in finding *durable solutions for refugees*, with a particular emphasis on the organization's efforts to *promote self-reliance* in areas of displacement. A number of recent, current and planned evaluation projects are contributing to this initiative. These include a global review of UNHCR's role in protracted refugee situations, which has been undertaken in close consultation with the Reintegration and Local Settlement Section and the Regional Bureau for Africa.

15. In addition, EPAU has completed an analysis of the potential for local integration as a solution to refugee problems, which has been used as the basis for a paper that will be discussed at the Global Consultations on International Protection; as well as lessons-learned reviews of UNHCR reintegration programmes in four African and Asian countries. Evaluations are also under consideration with respect to durable solutions programmes for refugees in Central Asia, and economic revitalization programmes in areas of displacement in the Caucasus.

Internally displaced populations

16. The international community's role in *meeting the needs of internally displaced populations* has been the subject of increased analysis and discussion in recent times. EPAU has sought to relate that debate to UNHCR's mandate and operational activities by undertaking evaluations of the organization's programmes in Angola (in association with DIP) and Sri Lanka (in association with the UK's Department for International Development). A review of the UNHCR programme in Colombia is also planned.

17. UNHCR's work with internally displaced populations will be the subject of a more detailed and global analysis in May 2002, when EPAU and DIP will jointly convene a two-day workshop titled 'Protection and solutions in situations of internal displacement: learning from UNHCR's operational experience'. Bringing together UNHCR staff from a dozen different operations around the world, and involving personnel from several other humanitarian agencies, the workshop will identify and share examples of good operational practice. It will also review the utility of UNHCR's operational guidelines for UNHCR's involvement with internally displaced persons, as well as the UN's Guiding Principles on Internal Displacement.

Emergency preparedness and response capacity

18. The issue of *UNHCR's emergency preparedness and response capacity* continues to be a major feature of the EPAU work programme. Soon after the events of 11 September 2001, UNHCR made a commitment to undertake a 'real-time' evaluation of its response to the crisis in Afghanistan and neighbouring countries.

19. This initiative has led to the preparation of three real-time evaluation bulletins, providing senior managers at Headquarters and the field with findings and recommendations that can be put to immediate operational use. Given the degree of interest in the 'real-time' evaluation concept amongst other humanitarian actors, EPAU has prepared a brief paper titled 'Real-time humanitarian evaluations: some frequently asked questions'.

20. As a result of findings presented in the real-time evaluation on Afghanistan, a more detailed and global review of UNHCR's emergency procurement, delivery and stockpiling arrangements has been launched. It is planned for completion in the second half of 2002.

Refugee women

21. An important focus of UNHCR's evaluation work programme has been and continues to be the *protection and welfare of refugee women*. In this context, EPAU has supported an assessment of UNHCR's work in this domain, sponsored by two Executive Committee members and undertaken by the Women's Commission on Refugee Women and Children. Publication of this assessment is expected by the time of the June 2002 meeting of the Standing Committee.

22. Other completed, current and forthcoming projects in this area include an independent evaluation of UNHCR's efforts to address the problem of sexual violence in Dadaab, Kenya; an independent evaluation of the Kosovo Women's Initiative; and a forthcoming workshop that will compare and assess the women's initiatives undertaken by UNHCR in Bosnia, Kosovo and Rwanda. EPAU is also assisting DOS to coordinate an inter-agency evaluation initiative that is designed to assess and improve the reproductive health services provided to refugees.

Other themes

23. In addition to the themes and projects identified above, EPAU continues to provide UNHCR with evaluation and analysis in a number of other areas. These include the implementation of the organization's policy on *refugees in urban areas;* the interface between *asylum and international migration,* including the issues of human smuggling, transit migration and the 'secondary movement' of refugees; the issue of *standards and quality in humanitarian assistance;* and finally, the problem of *security in refugee-populated areas,* especially those areas where bona fide refugees are mixed with armed elements.

D. CONCLUSION

24. Looking to the future, EPAU will in the months to come focus special attention on the introduction of UNHCR's evaluation policy, including the development of those tools and training activities which are required for the policy to be effectively implemented. At the same time, the unit will develop a programme of work for the coming year that is linked to the strategic priorities of UNHCR and its partners. In this respect, UNHCR welcomes any suggestions from Executive Committee members concerning specific evaluation projects which the organization might initiate in the course of the next twelve months.

SECTION II

INSPECTION AND INVESTIGATION ACTIVITIES

A. INTRODUCTION

1. The Office of the Inspector General (IGO) was established in 1994 to strengthen UNHCR's oversight capacity to assess, monitor and recommend improvements in operational management. Apart from inspections, IGO has overall responsibility for investigations throughout UNHCR and may be called upon to conduct inquiries into events which have endangered the lives or caused the death of staff members while on official duties.

2. The principles underlying the work of the IGO are independence, objectivity and appropriate confidentiality. IGO staff members are also required to demonstrate high professional competence in all aspects and phases of inspections, investigations and inquiries. Currently, the IGO staff comprises the Inspector General, four senior inspectors and a new three-person investigation unit. This team is assisted by two support staff.

3. During the reporting period covering May 2001 to April 2002, IGO undertook 13 inspections and conducted eight investigations. Since December 2001 investigation activities have been dominated by the allegations of sexual exploitation of refugee children in West Africa and the report from the UN Office of Internal Oversight Services (OIOS) to the General Assembly on the investigation into corruption in resettlement at UNHCR Nairobi Office. IGO also worked at redefining its investigation strategy.

B. INSPECTIONS

4. The inspection function is defined as 'a comprehensive, systematic and timely assessment of the management of UNHCR operations, and review of the UNHCR impact in given countries and regions, focusing particularly on those factors, both internal and external to the organisation, deemed essential to the effective and efficient achievement of organisational objectives.' Inspections are an internal oversight and management tool that provides the High Commissioner and his senior managers with a broad review of the functioning of his field representation at all levels. Inspections also provide UNHCR field offices with an independent and objective review of their performance and, where necessary, with a second opinion on difficult issues.

5. Since May 2001, IGO has conducted inspections in Botswana, the Democratic Republic of the Congo, Djibouti, Eritrea, Ghana, South Africa, Namibia, the Republic of the Congo, Zambia, India, Azerbaijan, Armenia and Russia. Plans are in hand to inspect Bangladesh, China, Hong Kong, Myanmar, Nepal, Pakistan, Kenya, Jordan, Lebanon and Syria in the remainder of 2002.

Needs identified for follow-up

6. In June 2001 the Inspector General reported to the High Commissioner on recurrent observations from inspections of UNHCR operations in 26 countries between March 1999 and March 2000. This report made a number of broad management observations and/or recommendations under the themes of Protection, Programme, Administration and Overall Management. It was shared

with UNHCR Directors with a request for comments on implementation. The observations, a summary of the conclusions drawn from the responses, and proposals for follow-up action are now being considered by senior management.

7. Recent inspections indicate similar observations, including:

a) The need to ensure that the right staff are in the right place, with adequate support and training - including protection staffing. In many operations there are gaps in staffing which adversely affect field operations, frequently leading to an inadequate presence of UNHCR staff (particularly international staff) in remote, and often insecure, refugee camps. In addition, staff are often not provided with the training they need to undertake the functions assigned to them, including the areas of administration, protection and programme.

b) Regional coordination in many operations could be improved through identification of common issues and implementation of common policies, notably with respect to similar caseloads, resettlement, repatriation, and assistance, as well as sharing of good practices.

c) Significant weaknesses have been found in a number of countries where UNHCR is directly involved in refugee status determination (RSD), particularly where this is linked to resettlement. It should be noted however that this is an area where a great deal of work is being done to reduce the risks inherent in RSD and resettlement.

d) There are wide variations in approach between offices towards urban refugees, including between persons from the same country of origin.

e) Not all offices have the benefit of access to experienced registration staff or to past lessons from registration, and often lack timely support. In addition, UNHCR needs to develop a global system to record refugee registration data.

f) There is a need to clarify policy and support to education. At present this can vary widely for refugees from the same country depending on where they sought refuge in a given country of asylum. The same has been observed between countries of asylum and among refugees from different countries of origin.

g) In most offices inspected, security ensured relatively adequate protection, but was not of a comparable standard to that offered to some other offices and embassies visited. In most cases, security awareness and consciousness, including basic security training, relocation exercises, backup for security officers, medical evacuation plans and basic firedrill training need to be reinforced for all staff at all locations. Minimum operating conditions need to be identified for each remote and/or insecure field location and must be adhered to.

h) There is a need in many operations to concentrate on building and strengthening partnerships with government counterparts, with NGOs, with refugees, with other actors within civil society.

i) There is a lack of attention paid to programmes to counter/prevent sexual and gender-based violence as well as inadequate clothing and personal hygiene supplies (soap and sanitary protection) for refugee girls and women. Unless these issues are addressed, refugee women and girls will never be fully protected or empowered.

Good practices

8. In the course of inspections, IGO noticed a significant number of good practices which should be shared, adapted or replicated in other UNHCR operations. These include, but are certainly not restricted to:

a) In Armenia, UNHCR has played an important role in building up and strengthening the institutional capacities of government structures dealing with refugees and displaced persons, as well as local NGOs. Documenting this experience will assist other offices in planning capacity-building activities.

b) In Azerbaijan, a yearly staff retreat provides a forum for discussion of any workplace- related issues and the adoption of a plan of action to redress any problems identified. This has contributed to a highly motivated and coordinated team.

c) The community service approach in Botswana empowers refugee women through income-generating activities. It is believed that this has reduced the level of commercial sex within the refugee population.

d) The Democratic Republic of the Congo, which highlights nearly all the problems which can be faced by a complex operation in an insecure region, has resolved a frequent food problem for polygamous families by providing separate ration cards to second and third wives. In another part of the operation an income-generating project makes sanitary protection for refugee women and girls.

e) A regional Eminent Persons Group, involving prominent persons with experience and interest in refugee and refugee-related issues has been set up in India, Bangladesh, Nepal, Sri Lanka and Pakistan. This has facilitated UNHCR advocacy activities in these countries.

f) In Zambia, there is an exemplary computerised urban refugee registration system in place. This permits the rapid (and accurate) identification of recognised refugees by the authorities, and has stopped the circulation of false documentation.

g) The procedures put in place for resettlement in Zambia could provide the basis for a regional system for Southern Africa, where resettlement is still in small numbers.

Review of inspection policy, practice and capacity

9. Eight years after its establishment, there is a need to review UNHCR's inspection policy, practice and capacity. For instance, IGO's original goal of inspecting each UNHCR country programme once every five or six years has not been achieved. After eight years IGO has undertaken inspections of UNHCR operations in 86 countries, but with others yet to be inspected. Inspection

findings need to reach a wider external audience whilst maintaining the necessary confidentiality. Common observations from inspections should be more widely circulated and fed into policy discussions, as well as a review of accountability for compliance with both specific and general recommendations. Procedures for sharing good practices need to be developed. In addition, a review is overdue of our standard inspection practices, questionnaires and inspection information.

10. There are increasing needs for follow-up and special inspections. Follow-up or compliance missions are necessary when an inspection reveals serious operational concerns, or where there is a significant impact of the rapidly changing environment in which UNHCR operates. In addition, certain events or incidents may require the unexpected and urgent deployment of an inspection team, as was done recently in Ghana.

11. Furthermore, IGO plans to inspect UNHCR operations in Kenya in the wake of the 2001 investigation into resettlement corruption and the resulting restructuring of the office and operation. The first half of 2003 will see inspections in Guinea, Liberia and Sierra Leone. These 'non-traditional' inspections are important to the Office, both to ensure that reforms have taken place and to draw global lessons learnt. They do however expand the current remit of inspections.

C. INVESTIGATION

12. The Inspector General is the focal person for investigation of alleged or suspected staff misconduct within UNHCR which includes misuse of funds, resources or facilities, abuse of authority and harassment, mistreatment of refugees or any improper conduct involving UNHCR staff or assets. Investigations are undertaken where there is reason to believe that a staff member has engaged in misconduct. If the assessment of the complaints or information of wrongdoings suggests that misconduct occurred, the Inspector General might decide that IGO will undertake the investigation, designate a responsible official within the Office, or refer the case to the Investigation Division of the UN Office of Internal Oversight Services (OIOS). Experts on specific subjects may be included in investigation teams. The outcome of each investigation is either an internal referral to initiate disciplinary action or closure of the case should the allegations prove unfounded.

13. During the reporting period, the Office received a number of complaints of alleged wrongdoing, including some which did not require investigation; others concerning minor misconduct; and some where an investigation did need to be undertaken. Eight preliminary investigations were undertaken directly by IGO, involving several staff members on allegations of harassment, mistreatment of refugees, fraud, corruption with respect to resettlement or misuse of UNHCR assets and facilities. IGO recommended disciplinary measures against a number of staff members, which led to sanctions against some, while a decision is pending in relation to others. Three staff members were cleared of the allegations against them. Four preliminary investigations are still ongoing. In addition, one investigation has been referred to the Investigation Division of OIOS (see paragraph 17).

14. The preliminary investigation into corruption within UNHCR Nairobi's resettlement activities which was referred to OIOS was concluded during 2001. A report to the UN General Assembly was issued in early 2002 and discussed at a meeting of the Fifth Committee in March 2002.

15. The revelation of the Nairobi corruption and the subsequent investigation have served as a wake-up call for the Office. Inadequate management and staffing and limited oversight at the Branch Office had created an environment vulnerable to corruption. Even before the conclusion of the OIOS investigation in Nairobi, allegations of resettlement corruption emerged in the course of an inspection in another country, to which IGO immediately fielded an investigation. This revealed another instance where poor oversight and the failure to strictly abide by protection and resettlement guidelines had led to corruption and exploitation. In this latter investigation, one staff member has been summarily dismissed while another remains suspended pending completion of disciplinary proceedings.

16. UNHCR's commitment to strong protection management oversight, sufficient qualified staffing, remedial and preventive measures will reduce the vulnerability of its resettlement programmes. The Department of International Protection (DIP), together with the Regional Bureaux and field managers, is working to improve refugee status determination and resettlement procedures and accountability globally. However, this vulnerability and the pressures on resettlement need to be seen against the backdrop of the intense demand for migration to developed countries. Many operations have taken remedial and preventive measures in the wake of the Nairobi scandal. For instance, the UNHCR office in Guinea, supported by DIP through its UNHCR/ICMC resettlement deployment scheme, has been proactive in reviewing its resettlement procedures. Faced with a number of vague allegations, Branch Office Conakry has undertaken a complete revision of its standard operating procedures for resettlement in order to provide greater transparency. In addition it embarked upon a registration exercise for all asylum-seekers and conducted an information campaign targeting both refugees and the public at large.

17. The allegations of sexual exploitation of refugee children in West Africa have received widespread media attention. Protection of the alleged child victims, remedial and preventive activities were prioritized and action initiated in December 2001. The investigation team was deployed to West Africa in mid-February 2002. This investigation is ongoing.

18. Sexual harassment in the workplace, like any other abuse of power, is of great concern to UNHCR because of its effects both on staff members personally, and also on the professional functioning of UNHCR operations. However, there are relatively few complaints lodged, possibly because the staff concerned may fear possible retribution, especially when the perpetrator is a supervisor or a more senior staff member. Three internal complaints of sexual harassment against UNHCR staff were investigated in the past year, one of which was determined to be without foundation, the second declared unproven and the third, instigated in 2002, was still under investigation. In two of these instances, issues concerning the procedural handling of the cases and differing understanding by staff members as to what sexual harassment means, sometimes influenced by local culture, gave rise to the initiation of measures designed to define and clarify this issue. In

collaboration with the staff welfare and human resources services, IGO will pursue discussions in order to disseminate clearly defined information concerning sexual harassment within the workplace.

19. Investigations were also undertaken into fraud and abuse of United Nations privileges and immunities. IGO conducted a preliminary investigation into a number of irregularities at one of its offices. Disciplinary proceedings are still ongoing. One of the contributing factors, however, of the alleged claims was an unclear policy on personal benefits. In 2002, IGO initiated one investigation into alleged abuse of import taxes immunity. The investigation is still ongoing.

IGO strategy for investigations

20. In the last 12 months, IGO has spent a large amount of time on redefining the strategy and framework for investigations. As a result, a new Investigation Unit is being set up, which will comprise a head of unit, two senior investigation officers and an investigation assistant. Aside from conducting investigations, the aim is for the Unit to establish internal co-ordination mechanisms and inter-agency collaboration, as well as ensuring a systematic recording of complaints, analysis and referral procedures. The unit will cooperate with others on preventive actions, notably with respect to fraud awareness and vulnerability or risk assessment, as well as on developing or improving measures to pre-empt wrongful acts. It is anticipated that this Unit will be in place by the end of July.

21. UNHCR and the Office of Internal Oversight Services (OIOS) propose to sign a Memorandum of Understanding to clarify and formalise the terms of co-operation in investigations between the two offices. The MOU is likely to be signed in the second semester of 2002 It will be based on the understanding that IGO remains the focal point for investigations in UNHCR, but uses OIOS' services and expertise to ensure the timely completion of complex investigations. An Inter Office/Field Office Memorandum was recently issued to elaborate on the role of IGO, emphasising in particular its role in relation to investigations. IGO is developing a database to provide a central recording facility for all complaints alleging misconduct in order to help manage investigation cases and analyse information. To ensure standard investigations throughout the Office, an Inspection Handbook will be released later this year. This will outline the different steps of the investigation process. An assessment of IGO investigation activities will be carried out within the next 12 months. This assessment will help to further enhance IGO's investigation function and to ensure consistent, prompt and appropriate responses.

SECTION III

GENERAL AUDIT

General

1. The UNHCR Audit Service of the Office of Internal Oversight Services (OIOS) assumes the internal audit function for UNHCR on the basis of a Memorandum of Understanding of 24 July 2001. The annual audit plan is developed in close consultation with UNHCR management, the UNHCR Oversight Committee and in coordination with the United Nations Board of Auditors. It includes periodic reviews of country operations, aiming at achieving a regular audit cycle of UNHCR's operations, with the frequency of the review determined by a risk-based approach. In the selection of country operations to be audited, special attention is given to Emergency Operations.

2. For the Afghan Operation, given its magnitude and the risks involved, OIOS and UNHCR have agreed to establish a Resident Audit team, currently based in Islamabad, in order to ensure continuous audit coverage and to provide advice to the managers of the operation on effective internal controls.

3. For field operations, OIOS, normally in conjunction with a Headquarters audit, focuses each year on a specific support function in order to determine systemic issues, and assess and benchmark operations. For 2001, OIOS focused on asset management; for 2002, procurement has been chosen. At Headquarters, in-depth reviews of certain functional areas, programmes or systems are conducted to assess operational effectiveness and aptness of policies and procedures. To get a better understanding of how UNHCR's major partners operate, OIOS undertakes reviews at the Headquarters of International NGO partners to assess their systems and procedures. Further, in an advisory capacity, OIOS provides guidance, assistance, and contributes to the development of UNHCR's policies and procedures.

Audits during the reporting period

4. During the period 1 July 2001 through 30 June 2002, OIOS audited operations in 32 countries, as follows: Africa (Angola, Burundi, Central African Republic, Republic of the Congo, Eritrea, Gabon, Guinea, Namibia, South Africa, Sudan, Uganda and the Regional Directorates); CASWANAME (Algeria, Iraq, Jordan, Pakistan and Syria); Asia and the Pacific (Australia, India, Japan and Nepal); Europe (Albania, the Baltic States - Estonia, Latvia and Lithuania -, Belarus, Bosnia and Herzegovina, Croatia, Czech Republic, Georgia, The former Yugoslav Republic of Macedonia, Poland, the Russian Federation and Turkey) and the Americas (USA). At Headquarters, OIOS audited the Albert Einstein Academic Scholarship Programme for Refugees (DAFI), UNHCR's 50th Anniversary activities, asset management, and as part of a system-wide audit of United Nations internal audit services, the submission of separation documents by UNHCR to the United Nations Joint Staff Pension Fund. OIOS also continued its reviews of UNHCR's major international implementing partners, with reviews conducted in Asia, Australia, Europe and the USA.

5. In total, for the period under review, audits by the UNHCR Audit Service covered operations and activities amounting to $245 million, or 31 per cent of UNHCR's total expenditure of $783 million in 2001. The Audit Service

issued 34 audit reports to senior management and more than 100 audit observations to managers in the field. Overall, UNHCR has been timely in responding to audit reports and audit observations, and in addressing the issues raised by OIOS.

6. As a result of these audits, savings and recoveries totalling approximately $3.1 million were recommended. Actual savings and recoveries during the period, resulting from audits during the current and prior reporting periods, totalled some $1.7 million. The process of recovery is ongoing and may extend over several years.

Implementing Partners

7. OIOS continued to prioritize its review of implementing partners to assess their ability to manage UNHCR project activities. UNHCR delegates to these partners a significant portion of funds, which in 2001 amounted to $283 million, representing 36 per cent of UNHCR's total expenditures or 66 per cent of the operational expenditures.

8. OIOS found that for nearly 80 per cent of the partners audited (accountable for 85 per cent of the expenditures audited), reasonable assurance could be taken that UNHCR funds were properly accounted for and disbursed in accordance with the sub-agreements. In most cases, however, OIOS had to re-emphasize the need for strengthening internal control policies and procedures to ensure the orderly and efficient conduct of programme activities. For those partners that did not have adequate systems and procedures (or where the reliability and integrity of information presented could not be assured), OIOS re-iterated the need for UNHCR to provide adequate support and more intensive training, guidance and supervision, as well as more careful scrutiny and assessment of partners prior to their selection.

9. Also, in order to obtain a better understanding of how UNHCR's major partners operate, OIOS continued to carry out reviews at the headquarters of international implementing partners to assess their systems and procedures, and provide advice and recommendations on how to ensure compliance with UNHCR requirements. The results of such reviews are documented in a database, which is expected to assist UNHCR in the selection of future partners.

Project Monitoring

10. In 2001 and 2002, OIOS focused on assessing UNHCR's project management, in particular, financial and performance monitoring of implementing partners' activities. This was an area of weakness highlighted by the Board of Auditors in its report on the financial statements of UNHCR for the period ending 31 December 2000 (A/56/5/Add.5). In some country operations, considerable improvement was needed to verify the use of UNHCR funds, and systematically monitor and measure the impact of project implementation. Even in operations where project monitoring was competently performed, the approach was not always efficient, focusing too much on a review of transactions rather than an assessment of systems. OIOS recommended that clearer and more detailed project monitoring and verification guidelines be developed. OIOS assisted UNHCR in developing a new strategy, which stressed the importance of periodically assessing the reliability of partners' accounting and budgetary control systems, as well as the effectiveness of internal control procedures. New, and more comprehensive guidelines have been issued by UNHCR to ensure a consistent and coherent approach.

Audit Certificates

11. In its report on the financial statements of UNHCR for the year ended 31 December 2001, the United Nations Board of Auditors concluded that the rules and practices for audit certification of UNHCR implementing partners were not satisfactory and did not provide UNHCR with assurance that funds were properly used. The Board pointed out that in most cases, the audit certificates, when received, did not make any reference to the financial reports audited. The Board recommended that UNHCR assess the feasibility and cost effectiveness of adjusting present audit requirements, and that it define, with the assistance of OIOS, and provide guidance on the audit requirements for government audits. OIOS will assist UNHCR in developing standard requirements and terms of engagement for such audits, and in further developing and strengthening the policies for implementing partner audit certification in general. In that regard, OIOS will also cooperate with the internal audit services of other United Nations agencies facing similar problems with projects under national execution or implemented by partners.

Value Added Tax

12. In its 1999 Annual Report (A/54/393, paragraph 54), OIOS reported on instances where UNHCR encountered difficulties asserting its rights for tax exemption or tax refund under the 1946 Convention on the Privileges and Immunities of the United Nations (1946 Convention). Payment of Value Added Tax (VAT) on UNHCR official purchases continues to be a problem, and OIOS is concerned that significant funds are absorbed by taxation and thus lost for the intended humanitarian purposes. In four country operations alone, OIOS found an estimated $3 million of VAT was recoverable. According to Article II Section 8 of the 1946 Convention, although the United Nations will not, as a general rule, claim exemption from taxes on goods which form part of the purchase price (such as VAT), member States will nevertheless make administrative arrangements for the remission or return of such taxes when the United Nations makes important purchases for official use. It is generally accepted that any purchase in excess of the equivalent of $100 is considered as important.

13. OIOS found, however, that VAT has not been refunded for various reasons, such as failure of the government to make appropriate arrangements for the refund; restrictive national legislation concerning the definition of important purchases and official use; and the failure of UNHCR offices to make proper and timely arrangements for claiming the refund of taxes. The findings in the four countries reviewed are summarized as follows:

- In one country, UNHCR paid some $1.9 million of VAT without obtaining a tax refund on local purchases of humanitarian goods such as food, blankets and sleeping mats under 1999-2001 emergency projects for the assistance of Internally Displaced Persons. While the government concerned has not disputed UNHCR's entitlement to a refund of the taxes, it has so far not established any administrative arrangements to ensure that VAT is refunded. UNHCR's efforts, even at the highest level, to obtain a tax refund, have not been successful. OIOS recommended that UNHCR intensify its efforts and seek the support of the Secretary-General to obtain a clear and unambiguous VAT refund

process from the government, in line with the 1946 Convention, as well as reimbursement of the VAT already levied;

- In another country, a 1999 OIOS audit had found that UNHCR was paying, without refund, significant taxes on fuel purchased through an implementing partner. After seeking advice from the Office of Legal Affairs, OIOS recommended that future fuel purchases be made directly by UNHCR in order to qualify for the VAT refund. A 2002 OIOS audit found that UNHCR had changed the procurement procedure, as recommended, and thus qualified for refunding of the taxes paid. However, due to coordination problems within the UNHCR country office concerned, UNHCR had not submitted any claims for tax refund. As a result, some $550,000 tax refunds for 2000 and 2001 were still outstanding and may have been lost due to the closure of the country's fiscal years. An additional $140,000 cannot be recovered as one partner continued to be delegated the responsibility to procure fuel, contrary to OIOS' advice. OIOS recommended that immediate action be taken to claim a refund for the $550,000 paid in 2000 and 2001, and to ensure that future claims for tax refunds are filed on time.

- An OIOS audit in 2000 found that a country had changed its tax legislation, thereby limiting the refund of VAT to only certain types of goods, such as vehicles and computer equipment, and establishing various thresholds for important purchases. For instance, the threshold established for office equipment and furniture was $600 per invoice. As a result of this new policy, $350,000 of VAT levied on past purchases was no longer recoverable and will have to be written off, and additional losses will be incurred in the future. OIOS concluded that the tax regulations in place do not comply with the 1946 Convention, and recommended that UNHCR bring the matter to the attention of the Office of Legal Affairs to raise the issue with the national authorities concerned.

- A country introduced VAT on goods and services in late 2000. An OIOS audit conducted in late 2001 found that the UNHCR country office concerned had not established proper procedures to ensure timely and systematic recovery. The accumulated VAT payments not claimed exceeded $60,000. On OIOS' recommendation, a system has been established to ensure reimbursement, however, as of June 2002 no refund had been obtained for the VAT already paid. OIOS requested that UNHCR continue to pursue this matter with the government concerned.

14. OIOS wishes to recall that in the case of outstanding VAT refunds for procurement undertaken during the Kosovo Emergency, as reported in the OIOS Report on the Audit of UNHCR Operations in Albania (A/56/128 of 3 July 2001), UNHCR succeeded in obtaining refunds of some $70,000. Thus, persistent follow-up efforts should eventually yield results.

15. Also in certain countries, tax privileges are not always extended to UNHCR's partners, who are subject to VAT of up to 25 per cent on local purchases. OIOS found that in these countries, some partners were tax-exempt, while others were not. Often it was because they had not aggressively sought reimbursement. In other instances, partners were tardy in their submission of

VAT reimbursement claims. OIOS estimated that over $150,000 was paid in VAT for the ten partners in the four countries sampled. This amount, although notable, does not reflect the full extent of the problem. OIOS recommended that UNHCR make further efforts to extend VAT exemptions to implementing partners, noting that positive results could be achieved if exemptions are actively pursued. Alternatively, if VAT exemption for partners is not feasible, the cost-benefit of delegating local purchasing to partners should be reviewed.

Project Staff

16. OIOS' review of the use of non-UNHCR 'Project Staff' determined that more than 900 persons under this category were working for UNHCR. Generally, another employer recruited these staff, even though UNHCR normally selected, fully funded, and directly controlled and supervised them. The subject of Project Staff has been an issue of concern within UNHCR for several years, and OIOS recommended that it be effectively addressed. In response, UNHCR decided to phase out Project Staff in favour of either creating the necessary regular posts, or by establishing genuine implementing partner arrangements. The implementation of this recommendation is still in progress.

The Albert Einstein Academic Scholarship Programme for Refugees

17. The Albert Einstein Academic Scholarship Programme for Refugees (DAFI) was well managed by UNHCR at Headquarters. However, it was difficult to assess the overall impact of the programme or measure its effectiveness, as adequate statistics were not available in terms of employment opportunities obtained by graduates benefiting from the programme. In view of increasing funding constraints and to enable more students to benefit from the programme, OIOS recommended concentrating the programme on study subjects with a high probability for future employment; limiting the duration of study; and discontinuing financial support for post-graduate studies and studies in high-cost education institutions. In response to OIOS' recommendations, UNHCR has revised the programme guidelines and selection criteria.

Asset Management

18. Asset management has repeatedly been highlighted as a problem area for UNHCR. OIOS' review of asset management at UNHCR Headquarters, in conjunction with field audits, confirmed that more improvement is still required. The audit covered assets with an acquisition cost of $193 million and a current value of $54 million. In view of a number of discrepancies found, OIOS could not ascertain the completeness and accuracy of the data presented. For example, a default value was used for about 4,000 assets, resulting in the acquisition cost and current values being understated by $15.7 million and $4.9 million, respectively.

19. Implementation of the new asset tracking system "AssetTrak", which had been launched in May 2000, was still not completed by mid-2001, particularly with regard to assets under the custody of implementing partners. OIOS recommended that further efforts be made to have a fully functional and reliable tracking system for UNHCR assets worldwide. OIOS further recommended that UNHCR management re-design asset management procedures (including disposal procedures, which are often cumbersome and uneconomical). UNHCR has developed comprehensive new policy

and procedure guidelines to ensure that information is more reliable and disposal procedures are more efficient.

UNHCR's 50th Anniversary

20. OIOS found that the 50th Anniversary celebrations, which culminated in the central event on 14 December 2000, were successful and met the expectations of raising awareness to the refugee situation. However, since no comprehensive plan and budget had been prepared for the 50th Anniversary activities, it was difficult to obtain consolidated data on the actual expenditure incurred or to measure the level of achievement against overall objectives. As recommended by OIOS, UNHCR assessed the level of achievement of objectives and prepared a final report on the 50th Anniversary activities, which can be used as a tool to disseminate the lessons learned.

General Assembly Reports

21. The report of OIOS on the Audit of UNHCR Private Sector Fundraising Activities (A/56/759 of 27 December 2001) highlighted that policies and procedures for private sector fund-raising needed to be more clearly defined in certain areas and developed in others, to improve economy and efficiency and to ensure activities were directed in a consistent and coherent manner. Self-sustainability is a key indicator for any fund-raising operation, but neither this factor nor the achievement of financial targets, were explicitly established as objectives for most of the private sector fund-raising operations. Also, the methodology for calculating the return on investment, the most important indicator to measure the success of any fund-raising operation, needed to be determined to increase the value of analytical comparison and allow more informed decision-making.

22. In response to the issues raised and recommendations made by OIOS, UNHCR has revised its fund-raising guidelines and defined policies and procedures for cooperation with National Associations. A global framework, aimed at achieving self-sustainability has been developed, financial targets established, and return on investment has been defined. This framework will be consistently applied.

Planned audit activities

23. During the remainder of the year 2002, OIOS plans audits in Botswana, Canada, the Democratic Republic of the Congo, China, Djibouti, Indonesia, the Islamic Republic of Iran, Liberia, Rwanda, and Yugoslavia including Kosovo. At Headquarters, OIOS will continue its review of staffing of emergency operations. Further, the procurement function will be reviewed, as well as the use of United Nations Volunteers by UNHCR and the budgetary control of project expenditure.

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Fifty-third session

PROVISIONAL LIST OF DOCUMENTS
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A/AC.96/963	Report of the Board of Auditors to the General Assembly on the Accounts of the Voluntary Funds Administered by the United Nations High Commissioner for Refugees for the Period Ended 31 December 2001
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